

Award No. 89
Case No. 91

PUBLIC LAW BOARD NO. 4244

PARTIES) ATCHISON, TOPEKA AND SANTA FE RAILWAY CO.
TO THE) AND
DISPUTE) BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

STATEMENT OF CLAIM: Carrier's decision to remove former Old Northern District Trackman C. A. Salazar from service, effective April 5, 1991 was unjust.

Accordingly, Carrier should now be required to reinstate the claimant to service with his seniority rights unimpaired and compensate him for all wages lost from April 5, 1991.

FINDINGS: This Public Law Board No. 4244 (the "Board") finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended. Further, the Board has jurisdiction over the parties and the subject matter involved.

The record shows that former Old Northern District Trackman C. A. Salazar (the "Claimant") tested positive for marijuana in October 1989. He was then medically disqualified, and later reinstated to service in November 1989. In April 1990, the Claimant was advised by the Carrier that he would be subject to periodic urine drug screening for a period of two years.

In February, 1991 the Carrier implemented a revised policy on the use of alcohol and drugs effective March 1, 1991. Item 9.0 of the new policy provided that employees who had tested positive in the past ten years would be subjected to dismissal if they tested positive a second time.

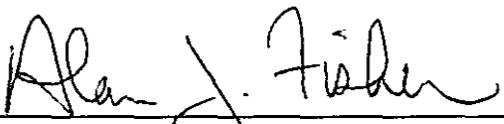
On March 12, 1991, the Claimant was notified in a certified letter dated March 12, 1991 from Carrier Medical Director R. K. Khuri, M.D. that he was subject to periodic urine drug screening. He was further instructed to submit a urine speci-

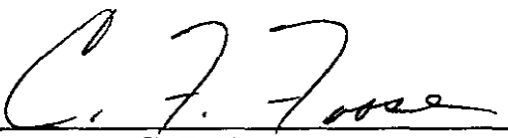
men within five calendar days of receipt of the certified letter, and if he was in violation of the new drug policy, he would be subject to dismissal.

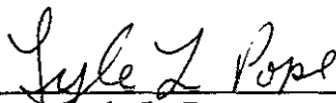
On March 29, 1991 the Claimant submitted a urine specimen for testing. The test showed that the Claimant tested positive for marijuana. On April 16, the Claimant was advised that he was in violation of Rule 9.0 of the Carrier's policy on the use of alcohol and drugs.

The Board finds that the Claimant was in violation of the Carrier's policy. The Board also finds that the record supports that the Carrier's argument that this matter, and subsequent cases, would be handled consistent with the provisions of the Letter of Understanding dated April 1, 1990 and incorporated in the Letter of Understanding dated June 24, 1991. Accordingly, the Claimant's removal from service was proper.

AWARD: Claim denied.


Alan J. Fisher
Chairman and Neutral Member


C. F. Foose
Organization Member


Lyle L. Pope
Carrier Member

Dated: February 12, 1992
Schaumburg, Illinois