

PUBLIC LAW BOARD NO. 4775

Award No. 7

UTU Case S239-322-23
CNW File 2-88-239

Parties to dispute:

United Transportation Union

and

Chicago and North Western
Transportation Company

Statement of claim:

Claim of Yardman J. T. Knuth, Eastern Division, for reinstatement to the services of the Chicago and North Western Transportation Company, with vacation and seniority rights unimpaired, in addition to the payment of any and all health and welfare benefits until reinstated, and that he be compensated for any and all lost time, including time spent attending an investigation held on November 5, 1987, at Janesville, Wisconsin, when charged with an alleged responsibility for his violation of Rule G while employed as a crew member of Job 06, on duty at 2:30 p.m., October 15, 1987, Janesville. Request and claim based under provisions of Yard Rule 23 of applicable schedule.

Opinion of Board:

Claimant was tested for drugs under the federal regulations following a car moving over a derail.

Claimant showed no outward signs of being under the influence of drugs or alcohol. He was allowed to continue his work day. His urine test was returned positive for cocaine, but no blood test was taken, nor are there any documents available showing that the blood test was waived.

The investigation was held with the Claimant not present though Carrier knew where he was and a reasonable estimate could be made as to when he would be available. Claimant was in a rehabilitation program.

There are aspects of this case which are similar to those considered by PLB No. 4430 in Awards 2 and 9. Because of the particular circumstances of this case, we will allow the claim for return to service, but not the claim for pay for time lost.

Findings:

That the Agreement was violated.

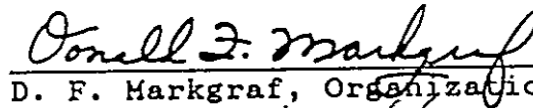
Award:

Claim sustained as outlined in Opinion of Board.

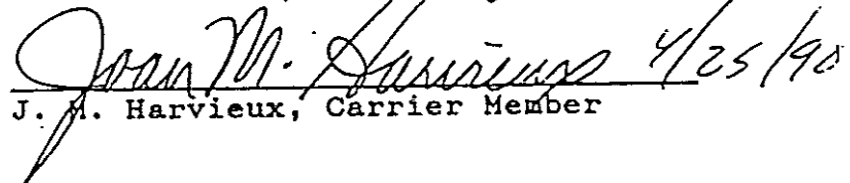
Dated this 15th day of March, 1990, at Chicago IL.
Carrier is directed to make this Award effective
forthwith.



John B. Criswell, Neutral Member



D. F. Markgraf, Organization Member



J. M. Harvieux, Carrier Member