

(Brotherhood of Maintenance of Way Employees

PARTIES TO DISPUTE:

(The Burlington Northern Santa Fe Railroad

STATEMENT OF CLAIM:

1. That the Carrier's decision to remove Southern Region, Trackman R. Castillo, Jr. from service was unjust.
2. That the Carrier now reinstates Claimant Castillo, Jr. with seniority, vacation, all benefit rights unimpaired and pay for all wage loss as a result of Investigation held 9:40 A.M. June 2, 1998 continuing forward and/or otherwise made whole, because the Carrier did not introduce substantial, credible evidence that proved that the Claimant violated the rules enumerated in their decision, and even if the Claimant violated the rules enumerated in the decision, removal from service is extreme and harsh discipline under the circumstances.
3. That the Carrier violated the Agreement particularly but not limited to Rule 13 and Appendix 11 because the Carrier did not introduce substantial, credible evidence that proved the Claimant violated the rules enumerated in their decision.

FINDINGS

Upon the whole record and all the evidence, the Board finds that the parties herein are carrier and employee within the meaning of the Railway Labor Act, as amended. Further, the Board is duly constituted by Agreement, has jurisdiction of the Parties and of the subject matter, and the Parties to this dispute were given due notice of the hearing thereon.

Claimant, for the second time within ten years, violated Rule 1.5. Employees who do so are dismissed. There is no second chance.

Following his first encounter with Rule 1.5, the employee is given a chance in the hopes he/she will straighten out their act and once again become a good worker.

Claimant was guilty of imbibing in a prohibitive drug for the second time. There is no second chance, and since substantial evidence was adduced on the property, Carrier's decision to dismiss was entirely proper and in accordance with the Rules.

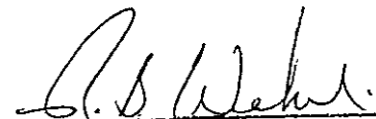
AWARD

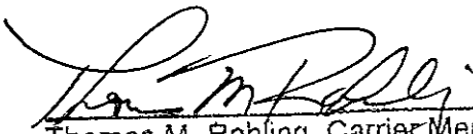
Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.


Robert L. Hicks, Chairman & Neutral Member


Rick B. Wehrli, Labor Member


Thomas M. Rohling, Carrier Member

Dated: 10/7/98