

PUBLIC LAW BOARD NO. 6284

PARTIES TO DISPUTE:

Brotherhood of Locomotive Engineers

-and-

Burlington Northern-Santa Fe Railway

AWARD NO. 8

CASE NO. 8

STATEMENT OF CLAIM:

It is hereby requested that Engineer Rueter's discipline be reversed, that he be made whole for all lost time resultant from this incident and investigation, and that notation on his personal record be removed.

FINDINGS:

This Public Law Board No. 6284 finds that the parties herein are Carrier and Employee, within the meaning of the Railway Labor Act, as amended, and that this Board has jurisdiction.

By letter dated June 11, 1999, the Claimant, Mr. Z.H. Rueter, was notified by the Carrier that he was dismissed from service as follows:

This letter will confirm as a result of the formal investigation afforded you on May 21, 1999, held at West Quincy, Mo., concerning the adulteration of the urine sample supplied by you on April 14, 1999, you are dismissed from employment for violation of rules 1.1, 1.3.1, 1.5 and 1.6 of The General Code of Operating Rules.

Please arrange to return all Company property and any Amtrak transportation passes in your possession. A check will be issued for any moneys due you.

This letter will be placed in your personal file. Your signing below serves as receipt of this dismissal.

Respectfully;

s/William S. Smith  
Superintendent Operations  
Ft. Madison, Ia.

The Organization appealed the discipline, and the matter has been properly

progressed to this Board for adjudication.

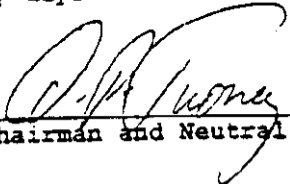
No basis exists to set aside the discipline in this case on the procedural issues asserted by the Organization.

Substantial evidence of record compels the conclusion that Mr. Rueter watered down his urine sample in an FRA random testing and is responsible for the rules violations set forth in the Carrier's June 11, 1999 dismissal letter. We have carefully considered the Carrier's view that permanent dismissal is mandated in this case. However, considering all factors of record including the seriousness of the proven violation and the quality of the Claimant's service record, and the fact that he had no prior Rule 1.5 discipline, and his successfully following the program required by his employee assistance counselor, he shall be returned to service with all rights unimpaired. The long period of time he has been withheld from service shall be deemed a disciplinary suspension.

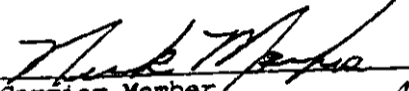
AWARD

As per Findings.

ORDER: The Carrier is required to comply with this award within thirty days.

  
Chairman and Neutral Member

  
Employee Member

  
Carrier Member  
*Consent to follow*

Dated: Feb 24, 2001