

PUBLIC LAW BOARD NO. 6284

PARTIES TO DISPUTE:

Brotherhood of Locomotive Engineers

-and-

Burlington Northern-Santa Fe Railway

AWARD NO. 9

CASE NO. 9

STATEMENT OF CLAIM:

It is hereby requested that Engineer James' 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 April 12, 1999, the Carrier notified the Claimant, Mr. T. James, that he was dismissed from service as follows:

As a result of the formal investigation held at 1330 Hours, Tuesday, March 30, 1999, in connection with your alleged violation of Section 12.0 of the Burlington Northern Santa Fe Policy on the Use of Alcohol and Drugs, and your alleged dishonesty for refusing to provide urine specimen on Monday, March 1, 1999, as indicated by adulterated test results confirmed by Burlington Northern Santa Fe Medical Review Officer, you are dismissed from the employment of Burlington Northern Santa Fe Railroad effective 2359 Hours, Monday, April 12, 1999 for violation of Section 12.0 of the Burlington Northern Santa Fe Policy on the Use of Alcohol and Drugs and for violation of General Code of Operating Rule 1.6 - Conduct.

Please arrange to return all Company property and any Amtrak transportation passes in your possession.

Acknowledge receipt of this letter by affixing your signature in the space provided.

s/G.D. Wright
Director Administration

The Organization appealed the discipline, and the matter has been properly progressed to this Board for adjudication.

We have considered the procedural points raised by the Organization, and we conclude that a basis does not exist to set aside the discipline on the grounds asserted by the Organization.

The Claimant has accepted full responsibility for his actions. Thus, there is no question but that the Carrier's rules set forth in the disciplinary letter dated April 12, 1999 have been violated. We have carefully considered the Carrier's view that permanent dismissal is mandatory 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 not only did Mr. James not have any prior Rule 1.5(G) violations but had no disciplinary entries over his twenty-one plus years of service and the fact he has successfully completed inpatient treatment with an excellent attendance and involvement record since that time, he shall be returned to service with all rights unimpaired, but without back pay.

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

Dated: 4-26-01

Consent to follow