

Org. File 238-57-7956
Co. File TRN S-5-24

Decision No. 5742
Case 1135
Supplemental List No. 91

SPECIAL ADJUSTMENT BOARD NO. 18
(Train Service Panel)

PARTIES TO DISPUTE: United Transportation Union-
Southern Pacific Transportation Company (Western Lines)

STATEMENT OF CLAIM: Request of Brakeman Gene Y. Shimizu, Salt Lake District, Sacramento Division, for reinstatement to service with seniority unimpaired and for replacement of wage loss resulting from his dismissal from service on June 24, 1985 as well as wage loss while attending an investigation on June 17, because of his alleged violation of Rule G of the Rules and Regulations of the Transportation Department, which occurred on June 3, 1985.

STATEMENT OF FACTS: On June 13, 1985, the Carrier directed the following notice of investigation to the Claimant:

"You are hereby notified to be present at 10:00 a.m., MDT, Monday, June 17, 1985 at the office of the Terminal Superintendent, 198 W. 28th St., Ogden, Utah for formal investigation to develop the facts and place responsibility, if any, in connection with your alleged illegal use of a drug, narcotic or other substance which affects alertness, coordination, reaction, response or safety, in that the use of an illegal drug, narcotic or other substance was detected by Company-directed toxicological examination conducted during your tour of duty as crew member on the SP Extra 3824 West at approximately 5:40 p.m., June 3, 1985 at Ogden, Utah.

"You are hereby charged with responsibility which may involve violation of that portion of Rule "G", paragraphs 2 and 3 reading:

"Employees shall not report for duty under the influence of, or use while on duty or on Company property any drug, medication or other substance, including those prescribed by a doctor, that will in any way adversely affect their alertness, coordination, reaction, response or safety. Questionable cases involving prescribed medication shall be referred to a Southern Pacific Medical Officer.

"The illegal use, possession or sale while on or off duty of a drug, narcotic or other substance which

affects alertness, coordination, reaction, response or safety is prohibited.'

"of the Rules and Regulations of the Transportation Department of the Southern Pacific Transportation Company."

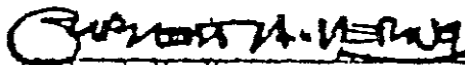
Subsequent to the investigation, the Claimant was dismissed. He was offered conditional reinstatement on November 22, 1985 and refused.

FINDINGS: The Board finds, after hearing upon the whole record and all evidence that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, that this Board is duly constituted by Agreement and it has jurisdiction of the parties and the subject matter, and that the parties were given due notice of the hearing held.

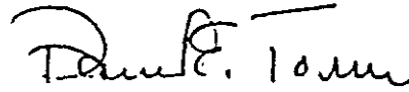
DECISION: The Board is satisfied that the evidence sufficiently establishes that the Claimant was in violation of Rule G. The results of his urinalysis were confirmed by two different tests and there is no evidence of any irregularities which would affect the validity of collection procedure, chain of custody or the test results.

While the evidence is sufficient, the Board, to support the charge, also believes it is appropriate to direct the Carrier to renew its offer of November 22, 1985. The offer will be open for a period of 30 days from date of notice to the Claimant.

The Claim is sustained to the extent indicated above.



Gilbert H. Vernon
Chairman and Neutral Member



D. E. Torrey, Carrier Member



Glynn Gallagher, Employee Member

Dated this 11 day of May 1987
San Francisco, California.