

PUBLIC LAW BOARD NO. 4901

AWARD NO. 216
CASE NO. 216

PARTIES TO
THE DISPUTE:

United Transportation Union

vs.

The Burlington Northern Santa Fe Railway Company
(Coast Lines)

ARBITRATOR: Gerald E. Wallin

DECISIONS: Claim denied

STATEMENT OF CLAIM:

"Request in behalf of Arizona Division Switchman M. Bonner for the reinstatement to the service of the BNSF Railway Company, Coast Lines, with seniority and all other rights unimpaired, but on a leniency basis."

FINDINGS OF THE BOARD:

The Board, upon the whole record and on the evidence, finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended; that this Board is duly constituted by agreement of the parties; that the Board has jurisdiction over the dispute, and that the parties were given due notice of the hearing.

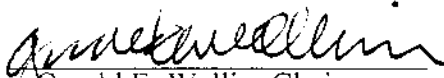
Claimant was dismissed on June 26, 2001 as a result of his second positive drug test within a ten-year period. At the time of his dismissal, Claimant had just under three years of service.


The record herein establishes that Claimant tested positive in July of 2000 and underwent treatment through the Employee Assistance Program. He completed the program and returned to service on October 25, 2000. Not quite six months later, on April 16, 2001, Claimant tested positive for marijuana usage in a follow-up test. The Carrier's rules provide for dismissal upon testing positive a second time within a ten-year period. None of these facts are in dispute.

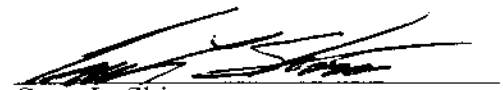
Under the circumstances, we do not find the Carrier acted unreasonably in rejecting Claimant's appeal for reinstatement on a leniency basis. Nothing in the record persuades us to disturb that decision.

AWARD:

The Claim is denied.


Gerald E. Wallin, Chairman
and Neutral Member


P. L. Patsouras,
Organization Member


Gene L. Shire,
Carrier Member

DATE:

Sept 5, 2003