

PUBLIC LAW BOARD NO. 4901

AWARD NO. 194

CASE NO. 194

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 Conductor D. G. Luna for reinstatement to the service of the Burlington Northern and Santa Fe Railway Company, Coast Lines, with seniority and all other rights unimpaired, but on a leniency basis as the result of the Formal Investigation conducted on November 15, 2000.”

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.


There is no dispute over the basic facts. Claimant's crew was involved in a derailment on September 12, 2000 and were required to submit to probable cause drug and alcohol testing. Claimant's test result came back with two sample validity indicators out of range. The conclusion was that Claimant's urine sample had been adulterated. At the investigation, Claimant admitted diluting his sample to avoid detection of marijuana usage.

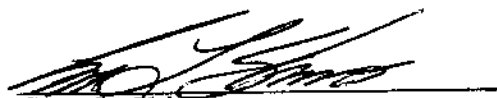
In Award No. 124 of this Board, issued more than seven years ago, we noted the appellate nature of our reviewing role. That award also involved an adulterated specimen. Our charge now, as it was then, is to review the record before us to determine if it contains substantial evidence to support the Carrier's disciplinary action as well as the penalty imposed. We find those requirements to be satisfied by substantial evidence in the record. The Carrier did not grant a leniency reinstatement. The record here provides us no proper basis for disturbing that decision.

AWARD:

The Claim is denied.


Gerald E. Wallin, Chairman
and Neutral Member


P. L. Patsouras,
Organization Member


Gene L. Shire,
Carrier Member

DATED: 5-8-03