

PUBLIC LAW BOARD NO. 5943

PARTIES)
TO)
DISPUTE)

BROTHERHOOD OF LOCOMOTIVE ENGINEERS

UNION PACIFIC RAILROAD COMPANY

STATEMENT OF CLAIM

Removal of dismissals from the record of Engineer G. L. Holloway for his alleged violation of Rules 1.5 (drug and alcohol violation) and Rule 9.5 (failure to stop before passing stop signal) of the General Code of Operating Rules of the Union Pacific Railroad and pay for time lost with seniority and vacation rights unimpaired.

OPINION OF BOARD

Claimant, an Engineer with 28 years of service, was dismissed as a result of his failing to stop before passing a red signal and for testing positive for alcohol.

Ordinarily, given the facts in this case and Claimant's prior record, this Board would not hesitate to uphold Claimant's dismissal. However, we note that Claimant's conductor on the date in question, J. D. Pierce, was dismissed for similar reasons, but was "returned to service, but only with entry into the companion program." PLB 3889,

Award No. 110 a & b. We also note that Claimant is a 28 year employee.

Under the circumstances of this case, Claimant shall be given the same opportunity as Pierce on a last chance basis, as follows:

First, within 14 days of the date of this award, Claimant shall enter the EAP.

Second, Claimant shall comply with all aspects of the program designed for him by the appropriate EAP counselor. As part of the program designed by the counselor, Claimant must regularly attend AA, NA, or equivalent type meetings, the frequency and type to be determined by the EAP counselor. Claimant shall also execute necessary releases so that the EAP counselor can regularly inform the Carrier of Claimant's progress and so that any medical records deemed necessary by the Carrier can be provided.

Third, the duration of Claimant's participation in the EAP shall be de-

terminated by the EAP counselor, but shall be no less than two years.

Fourth, in addition to any drug/alcohol testing required by the Carrier in the ordinary course or through the EAP, Claimant shall be subject to random drug/alcohol testing as determined by the Carrier. This Board strongly recommends that Claimant be randomly tested on a very frequent basis.

Fifth, Claimant shall be permitted to return to active duty only upon clearance by the EAP counselor and by the Carrier and further contingent upon Claimant's passing a return to duty physical.

Sixth, in the event Claimant fails to comply with any aspect of the program designed by the EAP counselor, or if it is determined by the EAP counselor that Claimant is not succeeding in the program, or if Claimant fails to execute necessary releases called for in this award, or if Claimant fails to comply with any aspect of this award, Claimant shall be *immediately* discharged.

Seventh, if after the date of this award, and for the duration of his employment with the Carrier, Claimant should ever test positive on a random or other drug/alcohol test, Claimant shall be *immediately* discharged.

Eighth, Claimant's reinstatement shall be without compensation for time lost, but without loss of seniority.

Ninth, Claimant shall be given a copy of this award by the Carrier and Claimant shall sign a copy acknowledging that he understands the contents of this award.

AWARD

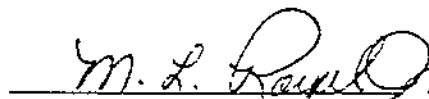
Claim sustained in accord with the opinion.



Edwin H. Benn
Neutral Member



Carrier Member
A. C. Hallberg



Organization Member
M. L. Royal, Jr.

Fort Worth, Texas

Dated: 6/25/97