

**NATIONAL RAILROAD ADJUSTMENT BOARD  
SECOND DIVISION**

**Award No. 13487**

**Docket No. 13353**

**00-2-98-2-46**

**The Second Division consisted of the regular members and in addition Referee Edward L. Suntrup when award was rendered.**

**(Sheet Metal Workers International Association  
PARTIES TO DISPUTE: (  
(National Carrier Passenger Corporation ( Amtrak )**

**STATEMENT OF CLAIM:**

- "1. The Carrier violated the current controlling Agreement when it unjustly dismissed Sheet Metal Worker Edward Austell from service by letter dated April 18, 1997 as a result of a formal investigation held in the Carrier Mechanical facility on April 7, 1997 in Hialeah, Florida.**
- 2. That the Carrier be required to return Sheet Metal Worker Austell to service with seniority rights unimpaired and reimburse him for all wages lost account of this unjust dismissal."**

**FINDINGS:**

**The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:**

**The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, as approved June 21, 1934.**

**This Division of the Adjustment Board has jurisdiction over the dispute involved herein.**

**Parties to said dispute were given due notice of hearing thereon.**

**The Claimant was advised to attend an investigation to develop facts and determine responsibility, if any, in connection with violation of the Carrier's Standards**

of Excellence relating to drugs and alcohol. After a number of postponements an Investigation was held. Thereafter the Claimant was advised that he had been found guilty as charged and he was discharged from service. This discipline was appealed by the Organization in the proper manner up to and including the highest Carrier officer designated to hear such. Absent settlement of the claim on property it was docketed before this Division of the National Railroad Adjustment Board for final adjudication.

The evidence in this case shows the following. The Claimant failed a drug screen test by testing positive for cocaine, marijuana and alcohol on July 22, 1996. Thereafter, in lieu of being subject to a disciplinary hearing, the Claimant signed a Rule G waiver and was returned to work as a Sheet Metal Worker. In the waiver the Claimant agreed to the following:

"I must submit to and pass a drug and/or alcohol test by urine and/or breath sample at least four times a year for the first two years of active service following my return to duty. I further understand that if I test positive in any future drug/alcohol test, including tests taken as part of any physical examination, I will be dismissed from all Amtrak service."

The Claimant was given a drug test on March 18, 1997. He tested positive for cocaine. A review of the record in this case warrants conclusion by the Board that all proper procedures were following in gathering the sample on this latter test and that current and accepted procedures were followed by SmithKline Beecham Clinical Laboratories in testing the specimen provided by the Claimant. The specimen underwent GC/MS confirmation.

This Board, Special Boards of Adjustment and Public Law Board Awards have all gone on record to the effect that Rule G waivers are self-executing agreements. See Second Division Award 11978; SBA 973, Award 15; SBA 1020, Award 11; SBA 1026, Award 19; PLB 5101, Award 18 inter alia. A complete review of the full record before it warrants conclusion that there is no reasonably grounds for the Board, in this case, to do other than follow this precedent. The claim is denied.

#### AWARD

Claim denied.

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**ORDER**

**This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.**

**NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division**

**Dated at Chicago, Illinois, this 11th day of April, 2000.**