

PUBLIC LAW BOARD NO. 3514

Case No. 535 Award No. 535

PARTIES Brotherhood of Maintenance of Way Employees
to -and-
DISPUTE: Consolidated Rail Corporation

STATEMENT OF CLAIM:

Appeal of Vehicle Operator, Cleveland Nesmith, to have his discipline of dismissal set aside.

FINDINGS: The Claimant tested positive for cocaine on May 24, 1988. Subsequently, he provided a negative urine sample and he returned to the service on July 12, 1988, on the condition that he would be subject to periodic drug testing for a period of three years.

On March 7, 1991, the Claimant provided a urine sample which tested positive for cocaine. It is this event that led to his dismissal and is before the Board for review.

The Board finds substantive evidence to support the Carrier's determination in this matter. Accordingly, given the serious nature of the proven offense and noting that arbitral Awards in this industry, under similar circumstances, have upheld the discipline of dismissal, as here, we must deny the claim.

AWARD

The claim is denied.

F. J. Domzalski
F. J. Domzalski
Carrier Member

Eckehard Muessig
Neutral Member

J. P. Cassese, Sr.
J. P. Cassese, Sr.
Employee Member

Dated: August 25, 1992