

DEC 12 1983

PUBLIC LAW BOARD NO. 4244

The evidence of record showed that on September 24, 1987 the Claimant was notified that he was being recalled to service by the Carrier. He was further advised that he was required to take a physical examination and urine drug screen prior to his return to service. The Claimant complied with these requirements on October 2, 1987.

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Division Engineer W.K. Hallows testified that the Claimant's drug screen tested positive for amphetamine, a substance controlled by law. The Claimant was advised of this result in a letter dated October 20, 1987 and was further advised in pertinent part:


1. If this medication has been legally prescribed, you must have the doctor or dentist who prescribed it complete the enclosed form and return it to me within 15 days of your receiving this letter. Failure to do so will result in your medical disqualification from service.
2. If you do not have a doctor's prescription for the medication, you must, within 15 days of receipt of this letter, proceed to Dr. Jack Weinblatt's office with this letter and the enclosed test requisition form to provide a urine specimen for testing. Failure to provide this urine specimen within 15 days will result in your medical disqualification from service. If your urine specimen continues to be positive, you will be required to consult with the Employee Assistance Counselor for evaluation.


The record shows that the Claimant submitted for a second drug screen analysis. The Claimant's second analysis tested positive for marijuana. Consequently, the Claimant was sent a letter dated November 3, 1987 informing him of the test results and that he was medically disqualified from service until he provided a negative urine specimen. He was further advised that if he failed to provide a negative urine specimen within 90 days of his receipt of the November 3 letter, the Carrier's general manager and superintendent would be informed of the test results, and his case would be handled as a disciplinary matter.

Hallows further testified that the Claimant was notified by Dr. Khuri in a letter dated January 14, 1988 that the Claimant had until February 4, 1988 to provide a clean urine specimen. If he failed to do so, the matter would be handled as a disciplinary action. He was further encouraged to contact the Carrier's Employee Assistance Counselor in his area if he had a problem "ridding himself of drugs". The Carrier then established through Hallows testimony that the Claimant did not comply with Dr. Khuri's instructions as set forth in the January 14, 1988 letter.

The Board has reviewed all the testimony and evidence of record. The Board finds that the Claimant was accorded a fair and impartial investigation and the Carrier complied with all the terms of the collective bargaining agreement. The Board further finds that the Claimant failed to furnish a clean urine specimen by February 4, 1988 as instructed by the Carrier. Moreover, the Claimant testified at the formal investigation that he failed to comply with the Carrier's instructions. As supported by Award No. 25 of the Board, and Awards No. 415 and 426 of Public Law Board No. 1582, there is no justification to set the discipline aside.

AWARD: Claim denied.


Alan J. Fisher, Chairman
and Neutral Member


Clarence F. Foose
Organization Member


Lyle L. Pope
Carrier Member

Dated: Dec. 20, 1988, Chicago, Illinois