

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES

VS

CONSOLIDATED RAIL CORPORATION

CASE NO. 93

AWARD NO. 93

DOCKET NO.: MW-398D


CLAIMANT: J. KRAUS

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood that:


1. The dismissal of Mr. J. R. Kraus for alleged '... failure to comply with the Conrail Drug Testing Policy as you were instructed in letter dated March 31, 1988, and subsequent letter dated April 19, 1989, from Medical Director T. Nowosiwski (sic), M.D., in that you failed to refrain from the use of prohibited drugs as evidenced by the urine sample provided on March 9, 1989, testing positive.' was without just and sufficient cause, arbitrary, capricious, on the basis of unproven charges and in violation of the Agreement (System Docket MW-398D).
2. The investigation held on April 27, 1989 was not held within the time limits as required under Rule 27(d).
3. As a consequence of the violations referred to in Parts 1 and 2 above, the Claimant shall be reinstated with seniority and all other rights unimpaired including overtime and benefits, his record shall be cleared of the charges leveled against him and he shall be paid for all wage loss suffered."


AWARD

The Claim is sustained in part and denied in part. The Claimant is to be reinstated immediately without back pay or benefits but with seniority unimpaired.


F. J. DOMZALSKI
Carrier Member

7-16-93


JED DODD
Organization Member


THOMAS J. DILAURO
Neutral Member
JUL 1 1993