

PUBLIC LAW BOARD - NO. 5418

Case No. 16

Award No. 16

PARTIES

to

DISPUTE:

Brotherhood of Maintenance of Way Employees

- and -

Springfield Terminal Railway Company

STATEMENT OF CLAIM:

- (a) Carrier's dismissal of Claimant P. D. Maillet was without justification, was arbitrary and capricious and was a violation of the current and governing agreement.
- (b) Claimant Maillet should now be reinstated to the Carrier's service with all seniority unimpaired and be compensated for all lost wages and benefits lost due to the unjustified termination.

FINDINGS: The issue herein came about because of the claimant's failure to provide a clean urine sample on April 7, 1995, in connection with his call back to service.

The record shows claimant was in the process of returning to service and was required to take a return-to-work physical examination which included a drug screen. On April 20, 1995, the Carrier was notified that claimant's test results were positive for marijuana. On April 25, 1995, claimant was given a notice to attend a hearing in connection with him testing positive for drugs on his drug/alcohol screening.

At the May 17, 1995 hearing, claimant's test results were introduced into evidence which conclusively showed that he tested positive for marijuana. During the hearing, claimant testified that he was notified of the test results and took no exceptions to what the physician had said regarding the positive results. Further, claimant also testified that he was aware of Carrier's policy requiring a drug and alcohol screen as part of a return-to-work physical.


Suffice to say that given the established facts of this case, the Board does not find any

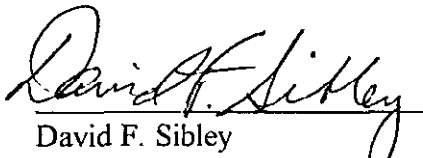
support to the Organization's contentions in this case.


Hence, based on the above facts, claimant clearly failed to comply with the requirements for returning to work and was fully aware of the consequences for his non-compliance.

Therefore, in consideration of the seriousness of the proven offense, we have no proper basis to disturb the Carrier's decision in this case.

AWARD The claim is denied


Francis J. Domzalski
Neutral Member


David F. Sibley
Carrier Member


Bradley A. Winter
Organization Member

Dated: 11-5-96