

PUBLIC LAW BOARD – NO. 6461

Case No. 19

Award No. 19

PARTIES

Brotherhood of Maintenance of Way Employees

to

-and-

DISPUTE:

Grand Trunk Western Railway

STATEMENT OF CLAIM:

Appeal of the discipline of dismissal imposed on
Eric Sloan on March 31, 2005.

FINDINGS: On March 22, 2005, the claimant was given a notice charging him with the
following offense:

“Charge 1

Whether or not, you refused a return to work drug screen test by
failing to show up for your test which was scheduled on February 26,
2005 at 0900 hours.

Charge 2

Alleged violation of General Operating Rule I, Furnishing Information
And Conduct, Paragraph 1, which reads:
Dishonesty, disloyalty, insubordination, willful neglect, gross
carelessness, desertion from duty, making false reports or statements,
concealing facts concerning matters under investigation, immoral
conduct, including but not limited to conduct of any employee leading
to the conviction of any felony, and serious violations of the law are
prohibited. This occurred when you allegedly failed to tell the truth
when you spoke to Medical Services Department Coordinator, Joann
Ricevuto, on February 28, 2005

And;

Charge 3

Alleged violation of General Operating Rule H, Rules, Regulations, and
Instructions, Paragraph 3, which reads:
Employees must cooperate and assist in carrying out the rules and
instructions. They must promptly report any violations to the proper
supervisor. This occurred when you allegedly failed to follow instruction
issued by Medical Services Department Coordinator, Joann Ricevuto,
when you failed to show up for your scheduled drug screening test on
February 28, 2005.”

Undisputed facts adduced at claimant’s hearing shows that Carrier’s representative, Ms.
Ricevuto contacted the claimant at approximately 3 PM, on Friday, February 25, 2005, and

told him that his return-to-duty physical drug screen test was deemed invalid by the testing laboratory. Ms. Ricevuto told the claimant that he would have to return to the clinic that day at 6 PM, to take another drug screen test. The claimant stated he could not report that day because of the distance involved, however, he did agree that he would be at the clinic at 9 AM, on Saturday, February 26, 2005, to take the required test.

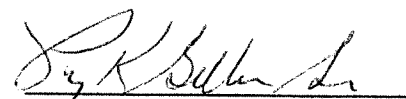
Ms. Ricevuto testified that when she arrived at work on Monday, February 28th, there was a voice mail message from the claimant (recorded at 1:03 PM on Saturday February 26th), wherein he stated that he had been in an accident and just returned home from his doctor's office and was unable to make the 9 AM appointment. Ms. Ricevuto stated she called the claimant and told him that she would need some documentation (Police Report and/or Doctor's Note) to verify his accident. She states that approximately ten minutes later, the claimant called her and said that he had lied and that he was out of town and that is why he couldn't make the scheduled appointment.

Based on the record, we find the weight of evidence conclusively shows the claimant failed to comply with reasonable instructions and acted in a dishonest manner, and is clearly guilty of the offense for which he was charged. Therefore, in consideration of the seriousness of the proven offense, we will not disturb the Carrier's disposition in this case.

AWARD: The claim is denied.


Francis J. Domzalski
Neutral Member


J. Gibbins
Carrier Member


Perry K. Geller, Sr.
Organization Member

Dated: 9-3-05