

PUBLIC LAW BOARD 964

Case No. 873  
Award No. 873

Parties to Dispute:

United Transportation Union  
and  
Norfolk Southern Railway Company

Statement of Claim:

Claim of Georgia Division, Brosnan Yardman F. Sanders for restoration to the service with seniority, vacation and all other rights unimpaired, including health and welfare benefits and payment of all time lost with all notations removed from his personal record as the result of his unwarranted dismissal from the service in connection with his alleged failure to comply with the instructions in the Carrier's Medical Director, Dr. J. P. Salb's letter dated December 21, 1987, instructing claimant to keep his system free of prohibited substances.

Opinion of Board:

As part of a physical examination on November 23, 1987, Claimant provided a urine specimen which tested positive for prohibited drugs. He provided a negative sample within 45 days and returned to service. Subsequently, he was put on notice by Carrier's medical director to keep his system free of prohibited drugs and that a future positive test would subject him to dismissal under the Carrier's policy on drugs.

On September 30, 1994, Claimant submitted a urine sample for testing as part of a periodic physical examination. It tested positive for marijuana and Claimant was dismissed for failing to follow the medical director's instructions, and the policy on drugs.

The Organization's arguments that Claimant ingested the substance by passive inhalation are not persuasive. After carefully reviewing the record, we find that dismissal was neither arbitrary nor excessive.

Findings:

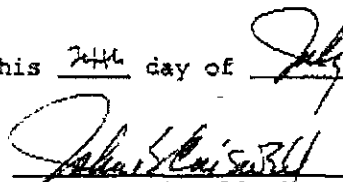
That the Agreement was not violated.


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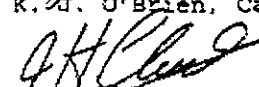
Award:

Claim denied.

Dated at Norfolk, Virginia, this 24th day of July,  
1995.

  
John B. Criswell, Neutral Member

  
K. G. O'Brien, Carrier Member

  
J. H. Clark, Organization Member

Carrier File: WY-CM-94-12  
Org. File: S-18762

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