

PUBLIC LAW BOARD NO. 3514

Case No. 312 Award No. 312

PARTIES Brotherhood of Maintenance of Way Employees
to -and-
DISPUTE: Consolidated Rail Corporation

STATEMENT OF CLAIM:

Appeal of Trackman, John D. Jefferson, to have his discipline of dismissal removed from his record.

FINDINGS: The essential elements of this claim involve the Carrier's application of its Drug Testing Policy. This policy, in pertinent part, provides that an employee whose first drug test is positive will have an opportunity for an evaluation by the Carrier's Employee Counseling Service. The employee then, in effect, has the following choices.

- If the evaluation reveals no addiction problem, in order to be returned to service a negative drug test must be provided within a 45-day period beginning with the date of the letter notifying the employee of his/her being withheld from service.
- If the evaluation indicates an addiction problem and the employee enters an approved treatment program, the employee will be returned to service upon recommendation of the treatment program and the Conrail Employee Counseling Service and must provide a negative drug test within 125 days of the date of the initial positive test. This time period can be extended by Health Services when warranted.
- An employee who fails to comply with the recommended treatment plan will be required to provide a negative drug test within the 45-day or 125-day time period referred to above, whichever is less, in order to be returned to service.

The Organization has strenuously argued before this Board with well-reasoned contentions, both procedural and substantive, that the claim must be sustained. The Board has carefully considered the Organization's advocacy on this matter and, while the Organization's views are not without merit, we find that the Carrier's position must prevail. In this respect, we particularly note that the Carrier's policy and similar drug addiction policies, have been upheld on numerous occasions by arbitral authority in this industry.

With respect to this claim, the evidence shows that the Claimant failed to comply with the Carrier's April 3, 1987 letter which in-

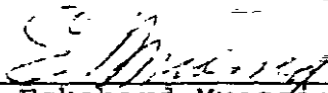
structed him to rid his system of Cannabinoid and provide a negative urine sample within 45 days.

AWARD

The claim is denied.



F. J. Domzalski
Carrier Member



Eckehard Muessig
Neutral Member



J. P. Cassese
Employee Member

Dated: August 31, 1989