

Case No. 315 Award No. 315

STATEMENT OF CLAIM:

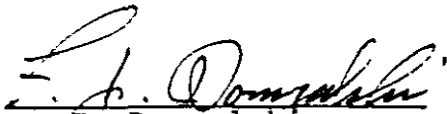
These are difficult cases for all concerned, particularly for the Organization. It has forcefully and with skill advanced its many concerns with respect to the application of the Carrier's Drug Policy. In this respect, it has particularly raised forceful questions and objections to the Carrier's testing procedures as well as the Carrier's

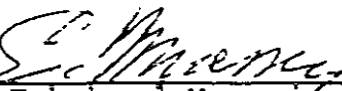
failure to produce medical personnel responsible for the administration of the urine test for cross-examination to test the accuracy of the data used and to elicit relevant facts. The Board has carefully considered these contentions. We understand the points raised by the Organization and we do recognize that they are not without merit, in certain situations. However, here, the record shows that the Carrier has employed a highly reputable laboratory which used the latest procedures and techniques to assure the accuracy of its tests. Therefore, the test result or "medical fact", as distinguished from a "medical opinion", is established. Accordingly, the failure to have a medical person present at the hearing for purposes of cross-examination does not inviolate the fairness of the proceedings.

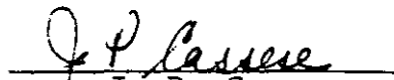
Railroad work is dangerous. The safety of the Carrier's workforce, as well as the public, requires positive measures to ensure that the inherent dangers are minimized. In furtherance of these efforts, the Carrier initiated a drug testing program which it announced to each of its employees, as noted earlier. The substance of the Carrier's program, as well as ones like it used by other Carriers, has been upheld by numerous arbitral Awards. Given the established facts of this case, we have no basis to arrive at an Award that runs counter to these many Awards. In the instant case, the Claimant was put on notice and, in effect, he was provided another opportunity to retain his employment. The consequences of his failure to comply with the Carrier's direction were of his choice.

AWARD

The claim is denied.


F. J. Domzalski
Carrier Member


Eckehard Muessig
Neutral Member


J. P. Cassese
Employee Member

Dated: Jan. 8, 1990