

PUBLIC LAW BOARD NO. 3765

Parties
to the
Dispute

BROTHERHOOD OF MAINTENANCE OF
WAY EMPLOYEES

vs.

GRAND TRUNK WESTERN RAILROAD
COMPANY

Case No. 47

STATEMENT OF CLAIM

The dismissal of Trackman, Tyrone A. Jones, for alleged absence without authority and for failure to comply with directions was arbitrary, capricious and exceedingly harsh.

Claimant Jones shall be reinstated to service with seniority and benefits unimpaired, his record cleared of the charges leveled against him and be compensated for all losses incurred.

OPINION OF THE BOARD

Claimant Tyrone Jones entered Carrier's service as a Trackman on July 31, 1989. He was furloughed on December 4, 1989, and recalled to work in March 1990. On March 19, 1990, he was given a return-to-work physical examination

that included a urine test for drugs. Claimant tested positive for cocaine and marijuana. He was notified on March 22, 1990, that he was required to enroll in Carrier's EAP Program or had 45 days to appear for retesting and provide a negative urine sample. He did neither. Claimant was subsequently charged as follows:

1. Your alleged failure to comply with directions from the Carrier's Chief Medical Officer, V.J. Gallant, dated March 30, 1990, which directed you to provide a negative drug screen within 45 days of that letter or enroll in and successfully complete a rehabilitation program under the supervision of the Manager EAP.
2. Being absent from duty without proper authority beginning May 15, 1990.

An investigation of the matter was held on June 11, 1990. As a result of that investigation, Claimant was found guilty as charged and dismissed from Carrier's service.

This Board has reviewed the record and the arguments presented on behalf of the Claimant. As a result of that review, the Board is persuaded that Claimant did not comply with Carrier's directive to enroll in the EAP Program or supply a drug-free urine sample within the 45 days specified

in the letter from the Medical Department. The Board has no recourse but to uphold Carrier's action and deny the claim.

AWARD

The claim is denied.

R. E. Dennis

R.E. Dennis,
Neutral Member

J.A. DeRoche,
Carrier Member

K.R. Mason
K.R. Mason,
Employee Member

Date of Adoption