

PUBLIC LAW BOARD NO. 3765

Parties
to the
Dispute

:
: CONSOLIDATED RAIL SYSTEM FEDERATION :
: BROTHERHOOD OF MAINTENANCE :
: OF WAY EMPLOYES :
:
: vs. :
:
: GRAND TRUNK WESTERN :
: RAILROAD COMPANY :
:
:

Case No. 55

STATEMENT OF CLAIM

We wish to appeal the decision rendered in the case of Mr. Michael R. Ramirez, Trackman, who was issued discipline in the form of dismissal from service as a result of an investigation held November 11, 1991 at Pontiac, Michigan.

We would request Mr. Ramirez be returned to service on this basis.

OPINION OF THE BOARD

Claimant Michael Ramirez entered Carrier's Service on October 17, 1989. At the time of the incident that gave rise to his removal from service, he was in furloughed status. Claimant was notified to report for a return-to-work examination on August 13, 1991. Part of that examination was a test of a urine specimen for drugs.

Claimant tested positive for cocaine. On August 16, 1991, he was sent a 45-day letter outlining his options. This letter reads as follows:

Dear Mr. Ramirez:

The results of your return to work physical examination revealed a positive detection of a controlled substance. For this reason, you are medically disqualified from further work.

Please be advised that you have until 4 P.M. on September 30, 1991 to act in accordance with one of the two options below:

1. produce a negative general drug screen report (to include a test for THC) obtained at your expense from the physician of your choice and subsequently test negative on a test administered by the GT Medical Department. You must furnish the original of the drug screen report and present yourself for testing at the Medical Department before 4 P.M.

OR

2. enroll in, and successfully complete, a rehabilitation program approved by the GT Manager, Employee Assistance and Rehabilitation. He may be contacted at (313) 396-6654. Your enrollment must be verified in writing and received by the Manager, EAP/REHAB before 4 P.M. You must test negative on a general drug screen at the time of your re-examination following completion of treatment.

Failure to comply with this instruction within this period, as stated above, will result in further administrative action which may include dismissal.

Yours truly,

V.J. Gallant, M.D.
Chief Medical Officer

cc: Manager, EAP/REHAB
cc: Personnel

Claimant failed to meet the requirements of the 45-day letter and was subsequently dismissed from Carrier's service.

This Board has reviewed the transcript of the investigation, as well as all of the documents contained in the record. Based on that review, this Board has concluded that Carrier has consistently applied its drug policy in regard to employees who test positive for drugs as part of a return-to-work physical examination. All employees in that category are sent a 45-day letter. That letter outlines what must be done by the employee in order to be allowed to return to work. It also clearly states that failure of the employee to comply can result in dismissal from service.

Claimant in this instance tested positive for cocaine. He received a 45-day letter and failed to comply with its terms. That failure resulted in charges, an investigation ,

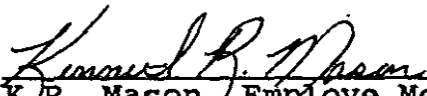
and Claimant's removal. This Board can find no basis in this record to disturb Carrier's action.

AWARD

The claim is denied.



R.E. Dennis, Neutral Member



K.R. Mason, Employee Member



R.J. O'Brien, Carrier Member

January 6, 1994
Date of Approval