

PUBLIC LAW BOARD NO. 3991

Parties
to the
Dispute

JOINT COUNCIL OF CARMEN, HELPERS,
COACH CLEANERS AND APPRENTICES

vs.

NATIONAL RAILROAD PASSENGER
CORPORATION

Case No. 31

STATEMENT OF CLAIM

The Organization seeks the reinstatement of
Chicago, Illinois, Coach Cleaner John Sullivan.

FINDINGS

On November 21, 1986, Chicago Maintenance Facility Coach Cleaner John Sullivan was charged with a Rule G violation, held out of service, and instructed to attend an investigation into the matter. On November 24, Claimant admitted the violation, waived his right to an investigation, and agreed to be withheld from service pending his successful completion of an EAP-recommended treatment program.

Among the terms of the Rule G Waiver was the agreement, for cases involving the use of drugs, to submit to and pass " a test for drugs

by urine sample each calendar quarter for a period of two years."

Following Claimant's first quarterly screening on April 1, 1987, Carrier concluded that he had tested positive for phencyclidine (PCP). Claimant was issued a letter of termination on April 9, 1987.

In the course of progressing this claim, the Organization raised many of the same arguments advanced in Case No. 26 of this Public Law Board (for example, the appropriateness of Claimant's signing a waiver and Carrier's alleged failure to grant him a hearing, both at the time when he was charged with the Rule G violation and after Carrier maintained that he had violated the waiver). As we noted in that case, this Board finds nothing wrong with the waiver signed by Claimant, in which he voluntarily gave up his right to an investigation in return for Carrier's allowing him to enter an EAP-authorized recovery program and the assurance that he would retain his job if he completed the program and complied with all the terms of the waiver. In addition, we also suggested that while an evidentiary hearing to determine if the waiver had been violated might be desirable, that issue was best left to the parties to negotiate. As in Case No. 26, we find sufficient probative evidence--in the form of the confirmation of Carrier's findings in the urinalysis by an outside laboratory--to substantiate Carrier's contention that there had not been full

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compliance by Claimant with the terms of the waiver. As a consequence, this Board has no alternative but to support Carrier's termination.

AWARD

Claim denied.

C. H. Gold
C. H. Gold, Neutral Member

J. H. Sugar 10-17-88
J. H. Sugar, Employee Member

W. O. Cole
W. O. Cole, Carrier Member

October 17, 1988
Date of Approval