

PUBLIC LAW BOARD - NO. 5418

Case No. 18

Award No. 18

PARTIES

to

DISPUTE:

Brotherhood of Maintenance of Way Employees

- and -

Springfield Terminal Railway Company

STATEMENT OF CLAIM:

- (a) Carrier's dismissal of Claimant Michael Guillet was without justification, was arbitrary and capricious and was a violation of the current and governing agreement.
- (b) Claimant Guillet should now be reinstated to the Carrier's service with all seniority unimpaired and be compensated for all lost wages and benefits lost due to the unjustified termination.

FINDINGS: The issue herein came about because the claimant tested positive for prohibited drugs on June 28, 1995.

The facts involved in this case show that the claimant reported an on-duty injury on June 28, 1995, and following medical treatment for the injury, he was required to take a drug screen. On July 6, 1995, the Carrier was notified that claimant tested positive for substance abuse. On July 11, 1995, claimant was given a notice to attend a hearing in connection with him testing positive for drugs on his drug/alcohol screening.

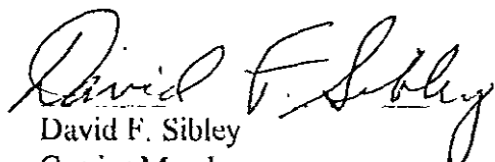
At the July 25, 1995 hearing, claimant's test results were introduced into evidence which conclusively showed that he tested positive for marijuana. During the hearing, claimant purports that he does not use drugs and he is merely a victim of a prank. In his defense, claimant submitted an undated "To whom it may concern" letter, wherein the signer alleges that he and the claimant and their girlfriends went away on Father's Day weekend (June 17, 1995) and for a joke he put marijuana in their spaghetti and meatball dinner without telling them. Claimant alleges he

asked the so-called perpetrator of the prank to attend the hearing and contends he gave several reasons why he could not appear.

Accordingly, in our review of the entire record, the Board does not find claimant's testimony or his proffered statement as being credible. Clearly, we are not unsympathetic to the Organization's arguments and statements submitted in claimant's behalf, however, considering all factors involved and the serious nature of the proven offense, the Board finds the Carrier did not misuse its discretion when it assessed discipline.

AWARD: The claim is denied.


Francis J. Domzalski
Neutral Member


David F. Sibley
Carrier Member


Bradley A. Winter
Organization Member

Dated: 11-5-96