

**PUBLIC LAW BOARD – NO. 6461**

**Case No. 19**

**Award No. 19**

**PARTIES**

Brotherhood of Maintenance of Way Employees

**to**

**-and-**

**DISPUTE:**

Grand Trunk Western Railway

**STATEMENT OF CLAIM:**

Appeal of the discipline of dismissal imposed on  
Eric Sloan on March 31, 2005.

**FINDINGS:** On March 22, 2005, the claimant was given a notice charging him with the  
following offense:

**“Charge 1**

Whether or not, you refused a return to work drug screen test by  
failing to show up for your test which was scheduled on February 26,  
2005 at 0900 hours.

**Charge 2**

Alleged violation of General Operating Rule I, Furnishing Information  
And Conduct, Paragraph 1, which reads:

Dishonesty, disloyalty, insubordination, willful neglect, gross  
carelessness, desertion from duty, making false reports or statements,  
concealing facts concerning matters under investigation, immoral  
conduct, including but not limited to conduct of any employee leading  
to the conviction of any felony, and serious violations of the law are  
prohibited. This occurred when you allegedly failed to tell the truth  
when you spoke to Medical Services Department Coordinator, Joann  
Ricevuto, on February 28, 2005

And;

**Charge 3**

Alleged violation of General Operating Rule H, Rules, Regulations, and  
Instructions, Paragraph 3, which reads:

Employees must cooperate and assist in carrying out the rules and  
instructions. They must promptly report any violations to the proper  
supervisor. This occurred when you allegedly failed to follow instruction  
issued by Medical Services Department Coordinator, Joann Ricevuto,  
when you failed to show up for your scheduled drug screening test on  
February 28, 2005.”

Undisputed facts adduced at claimant’s hearing shows that Carrier’s representative, Ms.  
Ricevuto contacted the claimant at approximately 3 PM, on Friday, February 25, 2005, and


told him that his return-to-duty physical drug screen test was deemed invalid by the testing laboratory. Ms. Ricevuto told the claimant that he would have to return to the clinic that day at 6 PM, to take another drug screen test. The claimant stated he could not report that day because of the distance involved, however, he did agree that he would be at the clinic at 9 AM, on Saturday, February 26, 2005, to take the required test.


Ms. Ricevuto testified that when she arrived at work on Monday, February 28<sup>th</sup>, there was a voice mail message from the claimant (recorded at 1:03 PM on Saturday February 26<sup>th</sup>), wherein he stated that he had been in an accident and just returned home from his doctor's office and was unable to make the 9 AM appointment. Ms. Ricevuto stated she called the claimant and told him that she would need some documentation (Police Report and/or Doctor's Note) to verify his accident. She states that approximately ten minutes later, the claimant called her and said that he had lied and that he was out of town and that is why he couldn't make the scheduled appointment.

Based on the record, we find the weight of evidence conclusively shows the claimant failed to comply with reasonable instructions and acted in a dishonest manner, and is clearly guilty of the offense for which he was charged. Therefore, in consideration of the seriousness of the proven offense, we will not disturb the Carrier's disposition in this case.

**AWARD:** The claim is denied.

  
Francis J. Domzalski  
Neutral Member

  
J. Gibbins  
Carrier Member

  
Perry K. Geller, Sr.  
Organization Member

Dated: 9-3-05