

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 482

Case No. 482
File 900164

Parties Brotherhood of Maintenance of Employes
to and
Dispute Union Pacific Railroad Company
 (Former Missouri Pacific Railroad)

Statement

of Claim: 1. Carrier violated the Agreement, especially Rule 12,
when Machine Operator G. W. Cole was withheld from service
on October 27, 1989.

2. Claim in behalf of Mr. Cole for ten (10) hours each work
day to cover October 30 to November 6, 1989, plus expenses
and travel time lost when his gang moved to Spring, Texas
while he was withheld account of false drug test, and this
incident removed from his record.

Findings: The Board has jurisdiction of this case by reason of the
parties Agreement establishing this Board therefor.

The Claimant, Assistant Gang Tamper Operator, Gary W.
Cole, following a periodic medical examination given he and
members of his gang on October 11, 1989, was medically
disqualified on October 27, 1988 by the Carrier's Medical
Director because he had tested positive for illegal or
unauthorized drugs (amphetamines). Dr. Richling, in
addition to giving him a copy of the findings, reiterated
the Carrier's medical and drug policy that had been given to
him by letter, dated April 10, 1988, from Assistant Vice
President Engineering Services Stan McLaughlin.

In both letters the Carrier advised each employee, in
essence, that an employee after a periodic physical
examination being found to test positive to illegal drugs
would be withheld from service until such time as he had
demonstrated fitness for duty by providing a negative drug
test. Further, that such employee had no more than ninety
(90) days from the date of the letter of disqualification to
demonstrate that the employee had become drug-free by
presenting himself to a medical facility selected by the
Carrier's Medical Director and providing a urine sample that
tested negative for illegal or unauthorized drugs. Also, an
employee could enter the Employees Assistance Program, such
90 day period would be extended thereby if the program and
treatment so required.

The Claimant ten days after he was disqualified, requalified and was returned to service by the Medical Director on November 6, 1989.

The Employees argued that the Claimant was taking a new over the counter sinus pill called "pyrroxate." The Claimant was questioned on October 17 by the Manager of Medical Services as to the medication he had been taking for the sinus problems. He was told on October 27th that he had shown positive for amphetamines and was removed from service.

The use by Claimant of the over the counter "pyrroxate" was not the factor in the positive test findings. The test of his urine sample was carried out pursuant to the rigorous and professional standards of all other tests.

The Claimant was not improperly disciplined but rather was medically disqualified. When the Claimant timely produced a negative sample he was reinstated to service. This claim will be denied.

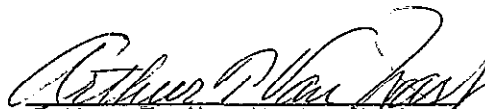
Award: Claim denied.



S. A. Hammons, Jr. Employee Member



D. A. Ring, Carrier Member



Arthur T. Van Wart, Chairman
and Neutral Member

Issued September 26, 1991.