

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 480

Case No. 480
File 890559

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 D. E. Standridge was dismissed from service on April 23, 1989.

2. Claim in behalf of Mr. Standridge for eight (8) hours per day, any overtime and holiday pay, and any additional expense incurred that would normally be covered by benefits provided by the Carrier, to cover period of April 23 - June 3, 1989.

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

The Claimant, D. E. Standridge, an Eastern District Tie Gang Machine Operator, was medically disqualified from service by letter dated May 2, 1989 from the Carrier's Medical Director, D. E. Richling, M.D. Said Medical Director advised the Claimant that as a result of his April 23, 1989 periodic physical examination he had tested positive for illegal or unauthorized drugs. The Claimant was advised therein that he could seek treatment through the Company's Employees Assistance Program (EAP) but, in any event, would not be able to return to service until such time as he demonstrated his fitness for duty by providing a negative drug test. Also, the Claimant was provided a similar letter from his Track Supervisor, G. A. Knowle, dated May 2, 1989 containing similar advice.

The Claimant complied with the instructions outlined in said letters and he was returned to service on June 3, 1989.

The claims herein are predicated on the wage loss during the period of time that he was out of service. This case is similar to other such cases that was placed before our Board. The Board finds no cause to distinguish this case from those cases. The Claimant was medically disqualified and not dismissed from service as alleged. Such medical disqualification was an exercise of the Carrier's right and as such it was not a disciplinary action.

The Board also finds that there was no impropriety committed in requiring the Claimant to undergo a routine periodical physical examination on April 23, 1983. Such was in line with Carrier's right. It was consistent with Carrier's well articulated medical policy sent to all employees April 10, 1989.

The Board notes that even if the claim had merit, which it does not, the claim was excessive because Claimant worked during the period April 23 through May 5 and the Claimant was paid vacation pay during the period May 6 through the 16th. Otherwise, as we pointed out in our Award 479 which, by reference is incorporated herein, this claim will also 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.