

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 482

Case No. 482  
File 900164

Parties     Brotherhood of Maintenance of Employees  
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.

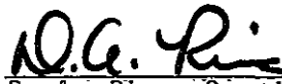
The use by Claimant of the over the counter "pyrroxate" was not the factor in the positive test findings. The test of his urine sample was carried out pursuant to the rigorous and professional standards of all other tests.

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.

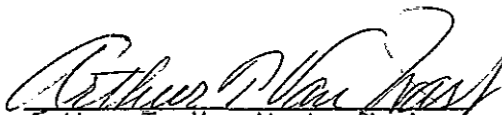
Award: Claim denied.



S. A. Hammons, Jr. Employee Member



D. A. Ring, Carrier Member



Arthur T. Van Wart, Chairman  
and Neutral Member

Issued September 26, 1991.