

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 543

Docket No. 543
File 910284

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

Statement

of Claim: 1. Carrier violated the agreement, especially Rule 12, when Machine Operator R. W. Collins was dismissed from the service of the Company.

(2) Claim on behalf of Mr. Collins for wage loss suffered, until reinstated with seniority, vacation and all other rights unimpaired.

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

This is a drug case arising because of the failure of the Claimant to remain drug free indefinitely. The Claimant, Machine Operator R. W. Collins, was required to attend a formal investigation, held on December 20, 1990, on the charge:

"...that you were allegedly insubordinate when you failed to comply with instructions from Track Supervisor L. D. Taylor in his letter of April 27 and August 31, 1989 to remain drug free indefinitely as evidence by the positive test result of the follow-up drug test given you on November 6 at Longview, Texas."

Carrier concluded therefrom that Claimant was culpable. He was dismissed from service as discipline therefor.

Claimant was accorded the due process to which entitled under Rule 12.

There was sufficient evidence adduced to support the Carrier's conclusion as to the Claimant's culpability. Stan McLaughlin, Assistant Vice President of Engineering, on April 10, 1989, wrote a letter to all employees under his jurisdiction advising that the medical policy of the Union Pacific (UP) on physical examinations was being modified to now include a drug screen in the physical examination and if a urine drug screen reflected positive the employees involved were to be given several options to get back into service amongst which options was the presentation of a

negative urine sample or in the alternative entering the Employee Assistance Program.

The Claimant, on April 18, 1989, was given a physical examination including the taking of a urine sample which sample tested positive for illegal or unauthorized drugs.


The Medical Director thereupon disqualified the Claimant at that time. He was placed on notice, in writing with a copy of the results of the drug test analysis and advised of his options. The Claimant was further advised that if he failed to provide a negative test within ninety (90) days from the date of disqualification, or if he failed to enter and complete the Employee Assistance Program successfully, he might be subject to dismissal.

The Claimant was also advised that if he was qualified to return to service that he had to remain drug-free and had to submit to follow up drug testing for three (3) years from date of return to service.


On August 31, 1990, the Claimant was advised that he could return to service because he had furnished a drug free urine sample. However, as pointed out above, a condition of his return to service was that he had to remain drug-free and submit to follow-up testing for three years. The Claimant was returned to service after a drug test on the basis of his providing a negative urine sample on August 31, 1989. The Claimant provided a urine sample on November 6, 1990 which tested positive. That fact showed that the Claimant had failed to remain clean and that he therefor had not complied with the instructions in the letter dated April 27 and August 31, 1989.

The discipline imposed is consistent with that also imposed in other similar cases presented to this Board. The claim will be denied.

Award: Claim denied.


S. A. Hammons, Jr., Employee Member


R. O. Rock, Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member