

Special Board of Adjustment No. 910

NATIONAL MEDIATION
BOARD
FEB 9 4 11 PM '90
RAILROAD
ADJUSTMENT BOARD

PARTIES
TO
DISPUTE:

United Transportation Union
and
Consolidated Rail Corporation

STATEMENT
OF
CLAIM:

Appeal of discipline of dismissal assessed Train-
man K. R. Bernat in connection with the following
charges as outlined on Notice of Discipline
(G-32) dated March 8, 1988:

"Your failure to comply with Conrail Drug Test-
ing Policy as you were instructed in letter
dated November 23, 1987, from Medical Director
P. Marazine, in that you did not provide a
negative drug screen by January 7, 1988, in
that you failed to refrain from the use of pro-
hibited drugs as evidenced by the urine sample
provided on 2/8/88 testing positive."

FINDINGS:

Following a formal investigation held on March 3,
1988, claimant was dismissed from Carrier's ser-
vice. He failed to appear at the investigation
and it was held in absentia. No procedural ob-
jections have been raised and no prejudicial
error is disclosed by the record.
Claimant had taken a return-to-duty physical on

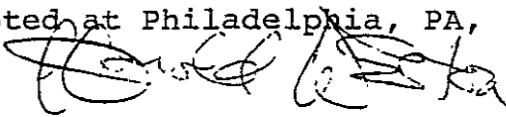
November 17, 1987 that included a drug screen urinalysis; the test proved positive for cocaine. He was duly advised that in accordance with Company Policy, he would have to provide a negative urine sample within 45 days. At the same time, he was strongly advised to contact the Conrail Employee Counselor who would assist in getting him into an approved program which would also extend the time limit for providing a negative screen. He also was notified that failure to comply would result in dismissal. The deadline for producing a negative urine sample was January 7, 1988.

On February 8, 1988, claimant provided a urine specimen, but that indicated, as Roche Bio-Medical Laboratories certified, that the level of cocaine in his system had increased from the November 17, 1987 test level.

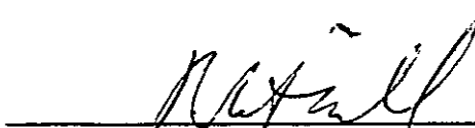
At the time of the November 17, 1987 test, claimant had a good record of 14 1/2 years service. However, his use of cocaine and his failure to accept professional help as well as an attendant extension of time to pass a drug test leaves this Board with no alternative but to uphold Carrier's decision to dismiss him. Company's Policy with respect to drugs is a reasonable and necessary one and will be enforced in all appropriate cases. Test Policy and all its provisions have been made known to each employee.

AWARD: Claim denied.

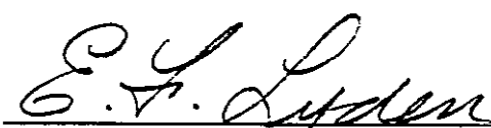
Adopted at Philadelphia, PA, *April 11,* 1989.



Harold M. Weston, Chairman



Carrier Member



Employee Member