

SPECIAL BOARD OF ADJUSTMENT NO. 884

Award No. 146

Case No. 107-88

PARTIES TO DISPUTE:

United Transportation Union

and

The Long Island Rail Road

Statement of Claim

Reinstatement of discharged Train Service employee G. Pinkard.

Findings

On February 19, 1987, Claimant signed a Last Chance Agreement with the Carrier in resolution of admitted violations of revenue accounting regulations. Claimant asked for leniency, contending that the violation of the revenue accounting rules were caused by her addiction to cocaine. In June 1987, Claimant failed a discretionary drug screen and was ultimately discharged. That discharge was set aside by Award No. 138 of this Special Board of Adjustment and Claimant was reinstated on the condition that she remain drug free, effective January 10, 1988.

On March 1, 1988 claimant was taken for a urinalysis test at the Long Island Rail Road's medical department, and according to the medical

department the results of that test indicated positive for cocaine use. Claimant was brought to trial on March 18, 1988, but failed to appear and the trial was held in absentia. Thereafter, the Claimant was dismissed and the dismissal was appealed to the representative of the Chief Personnel Officer of the railroad. That appeal was denied.

Claimant did appear before this Board and indicated that she had not appeared at her trial because she was in Detroit undergoing counselling. She requested another chance to prove that she could handle her admitted drug problem and indicated that she is now employed as a management trainee.

While this Board would like to exercise the same leniency that was afforded Claimant in Award 138, it does not appear proper for it to do so. Leniency is for the Carrier. This Board based its decision in Award 138 on the fact that she had not been given a reasonable time after the first incident to have the type of counselling and treatment that the Last Chance program presupposed. However, that is no longer true. A Last Chance program can only work if, in fact, that is the last chance. Claimant was given her opportunity, unfortunately she was not wise enough to take advantage of it. Hopefully, the fact of this final discharge and the fact that she is being given another opportunity in another environment will allow her to successfully control her addiction. It is not in the power of this Board to grant leniency. Accordingly, the discharge is affirmed and the claim denied.

It should be noted that Claimant was present throughout the hearing and made a statement on her own behalf. She also indicated that she felt that she had been fairly represented through the proceedings.

Award

Claim denied.

Robert O. Harris

Robert O. Harris
Chairman and Neutral Member

Rein P. Olvet

Rein P. Olvet
Carrier Member
[Concur / ~~Dissent~~]

Edward Yule, Jr.

Edward Yule, Jr.
Organization Member
[Concur / Dissent]

2/14/89