



Joint Resolution

And Formal Request for Information

Amalgamated **Transit** Union - Local 1637

Name of Grievant: Lorenzo Elliott

Today's Date: 12/10/09

Event Date: n/a

Contact Phone: 845-7443

Employee #:

Nature of Grievance:

The Union disagrees with the Company's response in this matter and respectfully request to move this grievance to Joint Resolution... Please be advised to provide all necessary Request for Information outlined in the grievance.

Wrongful Termination - This employee was **not** under the influence of narcotics or any kind of habit-forming drugs/alcohol as stipulated in the Disciplinary Notice severed on October 26, 2009.

Op. Lorenzo Elliott did in fact eventually produce enough urine. Although it was alleged to be just outside of the 3-hour limit would only prove he failed to produce on three occasions the amount mandated by the DOT/FDA collection process.

Other than that..., he was immediately transported to the Concentra medical facility for an evaluation, whereby he produced enough urine, still under the chain of custody that subsequently returned a negative test result.

The Union contends that the stipulated reason for termination in the Company's Disciplinary Notice is not only lawsuit worth but non-factual as well and therefore damaging to our members character.

Furthermore, the Union argues that the collection process was not followed according to the regulation [49 CFR Part 40]...

1. Despite the fact that he had his own water to drink, he was not offered any until what was alleged to be the end of collection process.
2. The Union questions the document "Collector Certificate" a narrative that reflects **no date or time.**
3. Despite the notation at "Step 2" on the Federal Drug Testing Custody and Control form, the Union doubts that the collector adequately explained to the donor, Lorenzo Elliot the 3-hour rule. Op. Lorenzo Elliott was under the impression that he was later to be transported to the Concentra Medical facility to give blood and/or hair samples in lieu of urine.
4. The Federal Drug Testing Custody and Control form was **not available** and had to be faxed over by "The Consolidated Testing Company" 9-days late!
The stipulation in the regulation states that the DER must obtain the original "Copy - 2" of the NCR form within 24 hours or the next business day.

The Union feels that this late action seriously detracts from the credibility and validity of the document or there would not be the stipulation in the regulation. To this day we have not seen the original "Copy - 2" of the Federal Drug Testing Custody and Control form as requested.

Desired Settlement:

Reinstate Op. Lorenzo Elliott and make whole

Information Request:

Sight of the original "Copy - 2" of the Federal Drug Testing Custody and Control form as requested.

Submitted By: Rick Valero

Company's Reply Section

Facility Secretary:

Today's Date:

JR Date set for:	Time:	Extension Request until:
<input type="checkbox"/> <i>Unsettled (Move to Arbitration)</i>		<input type="checkbox"/> Call to Confirm
<input type="checkbox"/> <i>Settled (Type Settlement agreed upon)</i>		
<div style="border: 1px solid black; height: 100px; width: 100%;"></div>		

In Accordance with Section: 29 Subsections: (6,7,8, and 9)

Joint Resolution Meeting (JRM)

29.6 In the event the decision of the FSM Hearing Officer is not satisfactory to the employee or the Union, the grievance may be appealed to the Joint Resolution Committee. This request must be filed within 30 calendar days of the written decision of the FSM Hearing Officer. Nothing in this agreement prevents the Union and the Company from meeting in an attempt to settle a grievance prior to Joint Resolution.

29.7 The Human Resources Director/Manager will chair the Joint Resolution Committee.

The Joint Resolution Committee will be composed of the following people:

- A. General Manager or Designee
- B. Appropriate Director or Designee
- C. Non-voting Outside Neutral(s)
(mutually agreed upon between the Company and the Union)

D. President/Business Agent, Local 1637 or designee

E. Member of Local 1637 or Designee

29.8 Deliberation of the Joint Resolution Committee will occur directly after the Joint Resolution Meeting. Upon completion of such deliberation, a vote to uphold, overturn or amend the grievance will occur and will be advisory. The committee shall reduce its decision to writing within five (5) working days after the conclusion of its meeting, and furnish copies to the Union and the employee. At such meeting the Union or the Company may require the attendance of relevant parties.

29.9 The grievant/Union shall present at Joint Resolution all issues and evidence known, or which could have been reasonably known, related to the grievance. Additional issues and/or evidence which become known after the Joint Resolution meeting shall be allowed to be presented and may be cause for the grievance to be remanded to the appropriate manager level based on mutual acceptance of the parties. Issues and/or evidence must be made known before filing for arbitration.