Can’t Fire Worker for Refusing to Answer Questions about Positive Drug Test



After a tank car was improperly released and travelled through a switch in uncontrolled circumstances, the train engineer and crew underwent post-incident drug and alcohol tests. The engineer’s urine test was positive for drugs. On the union’s advice, he refused to answer questions about when he used the drug that caused the positive test. The rail company fired him. An arbitrator ruled that it was reasonable for the company to ask the engineer when he’d last used the drug in question in relation to his shift. And his refusal to answer warranted discipline. But a saliva test indicated the 18-year employee wasn’t impaired at the time of the incident. And he had an otherwise clean record. So the arbitrator concluded that termination wasn’t justified. It ordered the reinstatement of the engineer, who would be subject to random drug and alcohol tests for two years [*Anadian Pacific Railway Company v. Teamsters Canada Rail Conference*, [2014] CanLII 6694 (CA LA), Feb. 17, 2014].