

Positive Marijuana Test Doesn't Prove Worker Was Impaired at Time of Accident



A machine operator subjected to post-incident testing after backing his Cat Loader into a pole, tested positive for THC, the ingredient in marijuana that causes impairment. As a result, he got fired. But the federal arbitrator reinstated him without loss of pay and \$5,000 in damages to boot. For one thing, the company didn't give the union all of the necessary evidence before doing the test. Just as importantly, the THC levels weren't enough for the company to prove that the operator was impaired **at the time of testing**. The arbitrator pooh-poohed the company's contention that the nature of the incident was all the evidence necessary to show impairment as a 'flimsy' argument [*Canadian National Railway Company v United Steelworkers, Local 2004*, 2021 CanLII 30111 (CA LA), April 15, 2021].