

Positive Urine + Negative Oral Swab Test Don't Prove Marijuana Impairment



A federal arbitrator reinstated a railway worker who was fired after testing positive for marijuana. The hi-rail truck derailment incident in which he was involved wasn't reasonable cause for drug and alcohol testing. 'An accident, by itself, is usually not enough to justify testing,' the arbitrator reasoned. Besides, because marijuana lingers in the metabolism after the high disappears, the positive test didn't prove he was impaired at the time of the incident, especially since his alcohol and swab tests came back negative. 'A positive urine test, but a negative oral swab test, do not demonstrate impairment' under current case law, according to the arbitrator [*Canadian Signals and Communications System Council No. 11 of the IBEW v Canadian Pacific Railway Company*, 2021 CanLII 69959 (CA LA), August 4, 2021].