

DRUG TESTING REFUSAL

Grievant, a bus operator was told by the Transit Operations Supervisor (TOS) at around 10:00-10:15 a.m., "I need to see you," and was then told, "you are going to go to Boyle Heights," which was the collection site of the transit authority's drug and alcohol program. Grievant understood the reference to Boyle Heights meant taking a drug test. Grievant next proceeded to the Transportation Manager's office to ask if he had to attend the transit authority's EAP and his prior DUI arrest. The meeting was interrupted by a confidential phone call for the Manager and Grievant was asked to step outside. After a while Grievant left the area without mentioning that he had to attend a DMV hearing scheduled for 11:15 a.m. that morning regarding a possible suspension of his license related to a prior and unrelated DUI matter.

The Arbitrator found though the Grievant was neither given a direct order to proceed to the Boyle Heights Medical Clinic, nor told expressly he was to be given a random drug test, the Grievant was well aware that this had to be done. Grievant simply exited the division office, made no attempt to follow-up with his TOS or Manager or notify them of his circumstances, namely, that it appeared he was between a "rock and a hard place" with the prospects of a random drug test and the DMV hearing. Grievant thereby "refused" a drug test which under the transit authority's policy is treated the same as a positive test result. (Los Angeles County MTA and United Transportation Union, December 12, 2007, Joseph F. Gentile, Arb.)