

BEFORE PUBLIC LAW BOARD NO. 7544

**BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
DIVISION – IBT RAIL CONFERENCE
and
SOO LINE RAILROAD COMPANY**

Case No. 7

STATEMENT OF CLAIM: “Claim of the System Committee of the Brotherhood that:

1. The discipline {suspended for five (5) days} imposed upon Mr. T. Steinbrenner by letter dated April 24, 2008 in connection with charges of claimed personal expenses reimbursement without explanation on the expense claim reports was arbitrary, capricious, and in violation of the Agreement (System File D-08-610-016/8-00514).
2. As a consequence of the violation referred to in Part (1) above, Claimant T. Steinbrenner shall now have all reference to this discipline removed from his personal record and he shall be paid for all time lost and have restoration of all rights and benefits that may have been lost as a result of this discipline.”

FINDINGS:

By notice dated March 14, 2008, the Claimant was directed to attend a formal hearing and investigation to develop the facts and place responsibility, if any, in connection with lodging and mileage expenses for September through December 2007. The hearing was conducted, after a postponement, on April 3, 2008. By letter dated April 24, 2008, the Claimant was informed that as a result of the hearing, he had been found guilty of claiming expenses without explanation, and was being assessed a five-day suspension. The Organization filed a claim on the Claimant’s behalf, challenging the Carrier’s decision to discipline him. The Carrier denied the claim.

The Carrier contends that the instant claim should be denied in its entirety because the Claimant was afforded a fair and impartial hearing, because there were no procedural

violations in the handling of this matter and the Carrier's November 2009 letter was timely, because substantial evidence supports the finding that the Claimant was guilty as charged, because the discipline imposed was based on the seriousness of the Claimant's action, and because the Carrier did not act in an arbitrary, capricious, or discriminatory manner. The Organization contends that the instant claim should be sustained in its entirety because there is no probative evidence in the record that the Claimant violated any rules, because the Carrier has worked to complicate this case with baseless assertions, innuendo, and other unsupported facts, because the Carrier committed serious procedural errors that violated the Claimant's due process rights, and because the Carrier's decision to discipline the Claimant was based upon unproven charges.

The parties being unable to resolve their dispute, this matter came before this Board.

This Board has reviewed the procedural arguments raised by the Organization, and we find them to be without merit.

This Board has reviewed the evidence and testimony in this case, and we find that there is sufficient evidence in the record to support the finding that the Claimant padded his expenses and obtained funds from the Carrier for alleged expenses that he did not incur. The Claimant admitted that he went to another location, knowing that he was not entitled to the mileage from that location. The Claimant then charged the Carrier for more miles than he actually travelled.

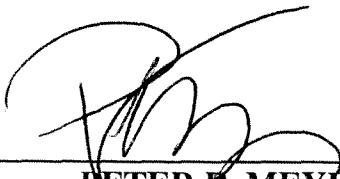
Once this Board has determined that there is sufficient evidence in the record to support the guilty finding, we next turn our attention to the type of discipline imposed.

This Board will not set aside a Carrier's imposition of discipline unless we find its actions to have been unreasonable, arbitrary, or capricious.

The Claimant in this case was issued a five-day suspension for his wrongdoing. Given the fact that this was a type of theft from the Carrier, this Board cannot find that that relatively minor discipline for the wrongdoing was unreasonable, arbitrary, or capricious. Therefore, the claim must be denied.

AWARD:

The claim is denied.



PETER R. MEYERS
Neutral Member



CARRIER MEMBER

DATED: 9/28/2012



ORGANIZATION MEMBER

DATED: 10/12/12