

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

AND

BURLINGTON NORTHERN RAILROAD COMPANY

STATEMENT OF THE CLAIM

1. The discipline assessed Machine Operator R.W. Myers 'February 24, 1986 letter of censure placed into personal record for failure to report at Hettinger, ND at 7:00 A.M. January 17, 1986;' in violation of Rule 502 was without sufficient cause and on the basis of unproven charges (System File B-Y-302/EMWE 86-05-07A).
2. Claimant shall be exonerated by clearing his record of the charge leveled against him.

FINDINGS OF THE BOARD

On January 17, 1986, the Claimant, Mr. R.W. Myers reported for work 15 minutes late. His stated reason was that he was delayed eating breakfast at a restaurant. By arriving late, Mr. Myers missed the departure of the section crew with whom he was scheduled to work. Mr. Myers was subsequently disciplined with a letter of censure.

The central argument presented by the Organization concerns the multiple roles served by Roadmaster L.R. Ross in this matter. Mr. Ross notified Mr. Myers of the charges, conducted the investigation and rendered the decision. Such multiple roles do not per se preclude a fair and impartial hearing. A determination as to due process in this matter rests on a consideration of the entire record.

There is no evidence of record to support the contention that the investigating officer prejudged the matter. To the contrary, the record is quite clear. Mr. Myers was late because his breakfast was delayed and he did not call in to advise his supervisor that he was on his way to work. Mr. Myers was not confronted with any emergency. Furthermore, although Mr. Ross was Mr. Myers' supervisor (to whom Mr. Myer reported after arriving late), the fact of Mr. Myers being late speaks for itself. This situation is not analogous to a matter, such as insubordination, where the interaction between supervisor and subordinate should preclude that supervisor from serving as the investigative officer. We find that Mr. Ross' multiple roles did not deprive Mr. Myers of a fair and impartial hearing.

We find no basis in the record to alter the discipline assessed by the Carrier.

AWARD

Claim denied.

Ronald L. Miller

Ronald L. Miller
Chairman and Neutral Member

Maxine H. Timberman

Maxine Timberman
Carrier Member

Bruce G. Glover

Bruce G. Glover
Organization Member

16 Sept 1988

Date