

PUBLIC LAW BOARD NO. 4950

NEW JERSEY TRANSIT RAIL OPERATIONS, INC. :
"Carrier" : Case No. 97
vs. :
BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES : Award No. 90
"Organization" :

OPINION OF THE BOARD

By notice of hearing dated August 4, 1994, Carrier instructed Claimant to appear at a hearing in connection with the following:

On Wednesday, July 13, 1994, you were 45 minutes late. On July 14, 1994, 45 minutes late; July 15, 1994, 45 minutes late; July 18, 1994, 30 minutes late; July 20, 1994, 1 hour late; and July 25, 1994, 45 minutes late. In accordance with NJTRO Absenteeism Policy, you were verbally counseled on February 18, 1994 and received written warnings on March 17 and March 30, 1994 concerning your excessive late starts.

Therefore, in connection with this matter you are charged with violation of: Engineering Department Safety Rule T and the NJTRO Absenteeism policy.

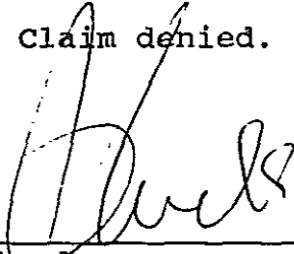
Following the hearing, Carrier found Claimant guilty as charged and assessed him discipline of ten days actual suspension, activating a five day deferred suspension. The Organization appealed, in part based upon Claimant having car trouble, the distance he lived from Carrier's headquarters, the absence of letters of warning, and Claimant's long service to Carrier.

The Board has determined that the claim must be denied.

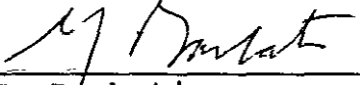
The Board finds substantial evidence in the record to support the allegations against Claimant. Claimant has a demonstrated record of attendance difficulties in general, and lateness on the specific days alleged. Factors of mitigation raised by the Organization on behalf of the Claimant do not negate nor excuse that pattern. Nor does the Board find that the discipline imposed is arbitrary or capricious under the circumstances here present.

AWARD

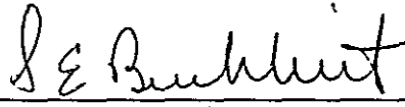
Claim denied.



P. Charles
Carrier Member



G. Barbati
Organization Member



S. E. Buchheit
Neutral Member