

BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 1037

Case No. 14

PARTIES: Brotherhood of Maintenance of Way Employees  
TO :  
DISPUTE: CSX Transportation, Inc.

STATEMENT OF CLAIM:

Dismissal of R.C. Cook, I.D. No. 166978, as a result of investigation held August 22, 1990, at Montezuma, Georgia.

FINDINGS:

Claimant R.C. Cook was employed by the Carrier as a bridge helper-bridge force 6A68 at Ideal, Georgia.

On July 2, 1990, the Carrier notified the Claimant to appear for a formal hearing in connection with the following charge:

On June 25, 1990, you left work at the end of the work day and did not return until work time on Thursday, June 28, 1990. You did not obtain permission from your foreman or myself. This letter is to advise that you are in violation of Rule 17, part B, of current agreement between CSX and its maintenance of way employees effective July 1, 1985, which reads in part: An employee desiring to be absent from service must obtain permission from the foreman or proper officer.

After one postponement, the hearing took place on August 22, 1990. On August 31, 1990, the Carrier notified the Claimant that he had been found guilty of the charge and was assessed discipline of dismissal effective August 31, 1990. Thereafter, the Organization filed a claim on Claimant's behalf, challenging his dismissal.

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 was guilty of violating Rule 17 (b) when he did not properly contact his supervisor to let him know that he was not coming into work on the 26th and 27th of June 1990. Although the Claimant indicates that he had taken time off to attend a funeral and

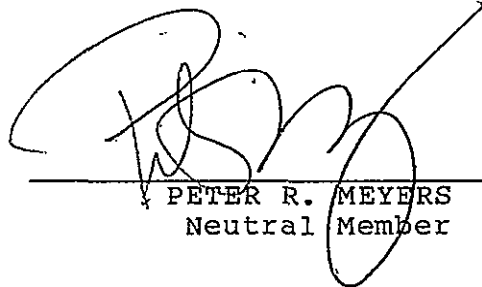
he had had trouble notifying the supervisor, the record reveals that he did not comply with the rules and thereby subjected himself to discipline.

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.

In the case at hand, although the violation of Rule 17 (b) is not normally one which would lead to termination, the record reveals that over his seventeen (17) years of service, this Claimant has violated Rule 17 (b) on several occasions. The Claimant has received suspensions totalling fifteen (15) days, thirty (30) days, sixty (60) days, in addition to having received a number of letters of reprimand. It is apparent that the Carrier has decided that the numerous disciplinary suspensions and letters of reprimand that have been previously issued to this Claimant have fallen on deaf ears. The Claimant continues to violate the Company rules; and the Carrier, at some point, has a right to determine that it no longer wants an individual like this Claimant as an employee. This Board is not in the position to second-guess the action of a Carrier. We cannot find that the Carrier's action in terminating the Claimant in this case was unreasonable, arbitrary, or capricious. Therefore, the claim must be denied.

AWARD:

Claim denied.

  
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PETER R. MEYERS  
Neutral Member

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Carrier Member

\_\_\_\_\_  
Organization Member

Date: \_\_\_\_\_