

BEFORE SPECIAL BOARD OF ADJUSTMENT 1037

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
and
CSX TRANSPORTATION, INC.

Case No. 42

STATEMENT OF CLAIM:

Claim that Mr. V. L. Rhodes ID# 162876, be reinstated to service and made whole for all lost wages and benefits account being dismissed from service as a result of an investigation which was held on September 29, 1994, at Florence, South Carolina.

FINDINGS:

On May 11, 1994, the Carrier notified the Claimant that he was being charged with a violation of Rule 17(b) of the Agreement for being absent from work since April 11, 1994 without permission. At that time, he was also notified that a hearing date would be set at a later date due to scheduling conflicts between the parties.

On September 19, 1994, the Claimant was notified to appear for a hearing into the charge brought against him on September 9, 1994. The hearing commenced as scheduled and since the Claimant was not present, it was conducted in absentia.

On October 17, 1994, the Carrier notified the Claimant that he had been found guilty as charged, and was terminated effective immediately.

The Claimant filed his appeal, challenging the Carrier's decision. The parties being unable to resolve the issue, this matter comes before this Board.

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 being absent without permission for more than 30 days. The record reveals that at the beginning of the absenteeism period the Claimant's mother died. The Carrier then waited three weeks beyond the three days of bereavement time to contact the Claimant. The Carrier then issued the letter of charges on May 11, 1994.

The record reveals that after the letter of charges was sent to the Claimant he still never appeared nor did he show up for the hearing. The record is clear that the Claimant did not show up for work for months after April 11, 1994.

Once this Board has determined that there 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's record of employment includes a 30-day suspension for violating a rule pertaining to dishonesty, as well as a 15-day overhead suspension and a 30-day actual suspension. The last discipline was for being absent without permission.

Given that previous background and the fact that the Claimant appears to have walked away from his job again in May of 1994, this Board cannot find that the Carrier's action in terminating the Claimant was unreasonable, arbitrary, or capricious. Therefore, the claim must be denied.

AWARD

Claim denied.



PETER R. MEYERS
Neutral Member



Carrier Member



Organization Member

DATED: 4-11-95

DATED: 4/19/95