

BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 1039

Case No. 1

PARTIES: SOO LINE RAILROAD COMPANY
TO :
DISPUTE: BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
(SOO LINE SYSTEM DIVISION)

STATEMENT OF CLAIM:

Twenty-day suspension assessed Geoffrey Mitchell as a result of investigation held May 22, 1990, at Glenwood, Minnesota.

Findings

Claimant Geoffrey Mitchell is employed as a section foreman in Glenwood, Minnesota. On April 23, 1990, Claimant Geoffrey Mitchell was sent a letter notifying him of the following discipline:

"For your allowing Mr. Frojen to work while under the influence of alcohol, which is a violation of Rule G of the General Code of Operating Rules, you are assessed 20 working days discipline. You may return to work May 21, 1990."

The Carrier received written notice from the Claimant on May 1, 1990, requesting a hearing. The investigation was held on May 22, 1990; and, as a result, Claimant was suspended from service for twenty working days, effective April 23, 1990. On July 25, 1990, Claimant Geoffrey Mitchell filed a claim to appeal his suspension.


This Board has reviewed the evidence and testimony in this case, and we find that there is not sufficient evidence in the record to support the finding that the Claimant was guilty of violating any company rules when he allowed an employee to return to work after he had been arrested for drunk driving. We do not believe that the Claimant violated any rules when he did not bring the condition of Mr. Frojen to supervision's attention at the Pro-Back meeting or later. Although Mr. Frojen may have violated the law, there is not sufficient evidence in the record that there was anything wrong with his

condition which necessitated the Claimant to keep him from working or to notify management.

The Carrier bears the burden of proof in cases of this kind. This Board has thoroughly reviewed the record and found insufficient proof of any violation of any rule. Therefore, the claim must be sustained.

Award

Claim sustained. The discipline is to be removed from the Claimant's record, and he is to be made whole for any loss of pay or other benefits.



Neutral Member

Carrier Member

Organization Member

Date: _____