

BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 1040

Case No. 1

PARTIES: SOO LINE RAILROAD COMPANY
TO :
DISPUTE: BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
(CHICAGO, MILWAUKEE, ST. PAUL & PACIFIC SYSTEM FEDERATION)

STATEMENT OF CLAIM:

Dismissal of W. Grillier as a result of investigation held on July 2, 1990, at Wood Dale, Illinois.

Findings

Claimant W. Grillier was employed as a pump repairman in Bensenville, Illinois. On June 4, 1990, Claimant W. Grillier was sent a letter notifying him of his dismissal from the service of the Carrier as a result of the following charges:

"On December 15, 1989, you were assessed a five (5) working day suspension from service to be effective December 18th through December 22nd, 1989. Investigation has revealed that you submitted a timeroll to allow yourself pay at the straight time rate of pay while you were off work on this assessed discipline.

On January 26, 1990, you were assessed a twenty (20) working day suspension from service to be effective January 29th through February 23rd, 1990. Investigation has revealed that you again submitted a timeroll to allow yourself pay at the straight time rate of pay while you were off on this assessed discipline.

. . . You only furnished the Payroll Department . . . the timerolls to allow you pay for these periods that you did not work. You paid yourself a total of twenty-five (25) days pay without working.

Further, the time off work was assessed as a result of your continued failure to properly protect your position on a full-time basis and . . . on March 26 and 27, 1990, you were absent from work. On May 7, 11, 21, 30, 31 and on June 1, 1990, you failed to work complete days, by either leaving work early or starting work late."

On June 22, 1990, another notice was sent to the Claimant supplementing the June 4, 1990, letter as follows:

"Please be advised that that notice should be supplemented

to include your alleged falsification of payroll documents from April 1989 to June 1, 1990 by claiming time for services not performed on various dates throughout that period."

The Carrier received written notice from the Organization dated June 4, 1990, requesting a hearing. The investigation was held on July 2, 1990; and, as a result, Claimant was dismissed from service effective June 4, 1990. On July 16, 1990, Claimant W. Grillier filed a claim to appeal 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 failing to properly protect his position on a full-time basis in March, May, and June 1990. The record is clear, and the Claimant admits, that on March 26 and 27, 1990, he was absent from work; on May 7, 11, 21, 30, 31, and June 1, 1990, he failed to work complete work days by either leaving work early or starting work late. Consequently, there was sufficient evidence to find him guilty of the offense.

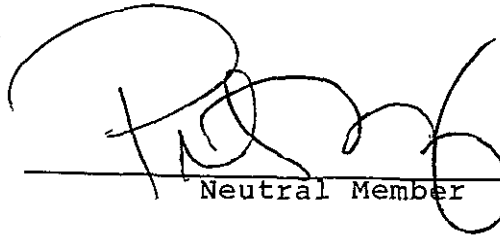
Once this Board has determined that there is sufficient evidence in the record to support the guilty finding, we next turn our attention to the type of discipline imposed. This Board will not set aside a Carrier's imposition of discipline unless we find its action to have been unreasonable, arbitrary, or capricious.

This Claimant previously received a five working-day suspension in December 1989, as well as a twenty working-day suspension in January 1990. Apparently, the discipline had no effect on the Claimant, as his work performance did not improve. Consequently, this Board cannot find that it was unreasonable, arbitrary, or capricious for the Carrier to discharge the Claimant after this latest violation

of the rules. Therefore, the claim must be denied.

Award

Claim denied.



Neutral Member

Carrier Member

Organization Member

Date: _____