

BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 1040

Case No. 11

PARTIES: SOO LINE RAILROAD COMPANY

TO :

DISPUTE: BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

STATEMENT OF CLAIM:

Appeal of Claimant Mark A. Pfeiffer's, Extra Gang Foreman, ninety working-day suspension and restriction of his foreman and assistant foreman seniority on September 4, 1991, for being argumentative, insubordinate and abusive to Project Roadmaster Staggs and for refusing to submit to a drug and alcohol screen on August 29, 1991.

FINDINGS:

Claimant Mark A. Pfeiffer was employed by the Carrier as an extra gang foreman in Wisconsin.

On September 4, 1991, the Carrier notified the Claimant that he was being assessed discipline of a ninety working-day suspension, effective August 30, 1991, as a result of his being argumentative, insubordinate and abusive to Project Roadmaster Staggs and his refusal to submit to a drug and alcohol screen on August 29, 1991. The Carrier further informed the Claimant that his seniority as foreman and assistant foreman was being restricted until the Carrier was satisfied with his ability to function as such and that he was to arrange to protect his assignment effective January 14, 1992. The Claimant was also given the opportunity by the Carrier to return to work after sixty working days provided he received a favorable recommendation from the Carrier's employee assistance coordinator, that return being effective November 25, 1991.

On September 12, 1991, the Organization, on the Claimant's

behalf, requested that the Carrier agree to the scheduling of a hearing to determine the facts surrounding the ninety working-day suspension and restriction of his seniority as foreman and assistant foreman.

The hearing took place October 16, 1991. On October 25, 1991, the Carrier notified the Claimant that his discipline of a ninety working-day suspension was being upheld, including the restriction of his seniority as foreman and assistant foreman, and that the Carrier's actions were warranted and proper.

On October 28, 1991, the Claimant appealed his suspension and requested that this matter be brought before this Board.

This Board has reviewed the testimony and evidence 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 argumentative, insubordinate and abusive to his supervisor. His insubordinate behavior took place in front of members of his crew and was totally inappropriate. The Claimant admits grabbing the supervisor's arm.

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.


In the case at hand, the Claimant was guilty of a very serious offense and it was not unreasonable for the Carrier to suspend him and to restrict his seniority as foreman and

assistant foreman. The Claimant had to be disciplined in order to make it clear to him that even if he has some disagreement with the directions he is receiving from upper level management, he must discuss them in a polite fashion and not bring himself or other management into disrepute, especially in front of his men.

The Carrier's action in this case was not unreasonable, arbitrary or capricious. Therefore, the claim will be denied.

AWARD

Claim denied.



PETER R. MEYERS
Neutral Member

Carrier Member

Organization Member

Dated: _____