

**BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 1040**  
**BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES**  
**and**  
**SOO LINE RAILROAD COMPANY**

**Case No. 30**

**STATEMENT OF CLAIM:**

Appeal of Claimant Michael G. Oniszko's thirty actual working day suspension from the Carrier's service.

**FINDINGS:**

On October 5, 1995, the Carrier notified Claimant Michael G. Oniszko that a formal investigation was being scheduled to determine the Claimant's responsibility, if any, in connection with his alleged failure to return Radio #6202 as instructed.

After two postponements, the hearing took place on October 20, 1995. On November 2, 1995, the Carrier notified the Claimant that he had been found guilty of all charges and was being assessed a thirty actual working day suspension effective that date.

On November 4, 1995, the Claimant advised the Carrier of his intention to appeal the discipline under the provisions of the Agreement of June 1, 1990.

The parties being unable to resolve the issues, this matter comes before this Board.

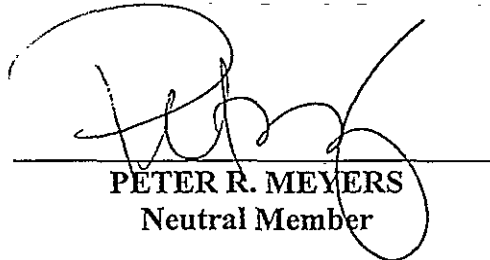
This Board has reviewed the record in this case, and we find that there is sufficient evidence in the record to support the finding that the Claimant was guilty of failing to follow the instructions of his supervisor and return a radio. A review of the somewhat confusing transcript makes it evident that the Claimant failed to comply with the Carrier's request until one day when he allegedly found the radio in the back seat of his own car. The Claimant testified that he did not know how the radio got there and it was only after that that he returned it to the roadmaster.

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.

A review of the Claimant's record indicates that during his relatively short tenure, he has previously received a warning letter and a twenty-day deferred suspension. In this case, he was assessed a thirty-day actual suspension. Given the seriousness of the wrongdoing of the Claimant in failing to comply with the instructions of his supervisor, coupled with his previous disciplinary record, this Board cannot find that the action taken by the Carrier was unreasonable, arbitrary, or capricious. Therefore, the claim will be denied.

**AWARD:**

Claim denied.



PETER R. MEYERS  
Neutral Member

**Dated: January 29, 1996**