

BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 1040

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
and
SOO LINE RAILROAD COMPANY
(CMSP&P)

Case No. 42

STATEMENT OF CLAIM:

Appeal of Claimant Tyler M Washington's ten-day suspension.

FINDINGS:

On November 26, 1996, the Claimant received notice from the Carrier instructing him to appear for a formal investigation into the Claimant's excessive absenteeism when he allegedly failed to protect his assignment on October 7, 8, 9, and 15, December 12 and 16, 1996, and allegedly tardy for his assignment on September 26 and October 2, 1996. After the hearing, it was determined that the Claimant was guilty of violating GCOR 1.15 and Safety Instruction 744 and on January 13, 1997, the Carrier notified the Claimant that he was being assessed a ten-day suspension effective January 14, 1997.

The parties being unable to resolve the issues, 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 to support the finding that the Claimant was guilty of failing to protect his assignment on October 7, 8, 9, and 15, 1996, as well as, on December 12 and 16, 1996. In addition, there is sufficient evidence that he was tardy for his assignment on September 26 and October 2, 1996.

Once this Board has determined that there is sufficient evidence in the record to

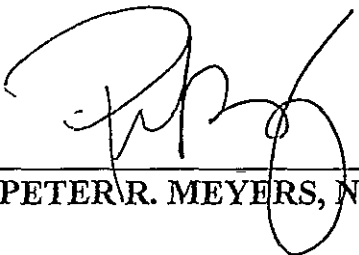
support the guilty finding, we next turn our attention to the type of discipline imposed.

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 he had previously been disciplined with a five-day deferred suspension for absenteeism, a 16-working day suspension for absenteeism, and another five-day suspension for absenteeism. With that abysmal attendance record, this Board cannot find that the Carrier acted unreasonably when it issued the Claimant another ten-day suspension for the continued attendance rule violations in this case. Therefore, the claim will be denied.

AWARD

Claim denied.



PETER R. MEYERS, Neutral Member

Dated: February 17, 1997