

BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 1040
BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
and
CANADIAN PACIFIC RAILWAY COMPANY

Case No. 50

STATEMENT OF CLAIM:

Appeal of Claimant Jose E. Gallegos

FINDINGS:

On May 6, 1998, the Claimant was notified by the Carrier to appear for a formal investigation into the charges of his alleged failure to protect his assignment on a full time basis when he walked off the job without authority on April 21, 1998, while working in Bensenville, Illinois. The investigation was held on May 20, 1998, and it was determined that the Claimant was guilty as charged. Consequently, the Claimant was assessed a five (5) day suspension.

The Organization filed the instant claim on behalf of the Claimant under the provisions of the Agreement.

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

This Board has reviewed the record 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 protect his assignment on a full time basis when he walked off the job without authority on April 21, 1998.

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 shows that he has been employed since July of 1993 and that this is the first such incident of this kind. Given the previous disciplinary record, this Board cannot find that a five calendar day suspension was unreasonable, arbitrary, or capricious. Therefore, the claim must be denied.

AWARD

Claim denied.



PETER R. MEYERS, Neutral Member

Dated: July 27, 1998