

BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 1040

Case No. 8

PARTIES: SOO LINE RAILROAD COMPANY

TO :

DISPUTE: BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

STATEMENT OF CLAIM:

Appeal of Claimant James Lockhart, Jr.'s, Laborer, five working-day suspension on July 2, 1991, for his failure to protect his assignment on a full-time basis and failure to work in a safe manner.

FINDINGS:

Claimant James Lockhart, Jr. was employed by the Carrier as a laborer in Wisconsin.

On July 2, 1991, the Carrier notified the Claimant that he was being assessed a five working-day suspension from the service of the Carrier as a result of his failure to protect his assignment on a full-time basis and failure to work in a safe manner. He was further advised to protect his assignment on July 9, 1991.

On July 8, 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 assessment of the five working-day suspension.

The hearing took place on August 7, 1991. On August 16, 1991, the Carrier notified the Claimant that his five working-day suspension was being upheld and that the Carrier's actions were warranted and proper.

On August 19, 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 failing to adequately protect his assignment and failure to work in a safe manner. The record reveals that the Claimant admitted his tardiness and admitted that he was "tossing" tie plates onto a car causing the injury to an employee.

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 had been working for the Carrier for less than one year. The Claimant was guilty of two infractions, one of which could have been very serious. It was not unreasonable for the Carrier to issue a five-day suspension to this relatively new employee so that he gets the message that safety rules and absenteeism requirements must be followed.

The claim will be denied.

AWARD

Claim denied.



PETER R. MEYERS
Neutral Member

Carrier Member

Organization Member

Dated: _____