

BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 1040

Case No. 9

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, five working-day suspension on July 25, 1991, for absenting himself from duty without proper authority on July 22, 1991.

FINDINGS:

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

On July 25, 1991, the Carrier notified the Claimant that he was being assessed a five working-day suspension, effective with the close of work on July 24, 1991, from the service of the Carrier as a result of absenting himself from duty without proper authority on July 22, 1991. He was further advised to protect his assignment on August 1, 1991.

On August 2, 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 September 4, 1991. On September 13, 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 September 16, 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 absenting himself from duty without proper authority on July 22, 1991. The record reveals that the Claimant actually left the property on that date and did not advise the timekeeper that he would not be present. Although he stated that he attempted to contact the Project Roadmaster and Project Manager to advise them that he would be leaving the area, he also admits that he was unable to contact either one of them. This Board recognizes that it was a serious matter that the Claimant had to attend to, however, he violated the rules by not obtaining the appropriate permission from supervision before he left the area. It is evident from the transcript that there is some personality conflict between the Claimant and his supervisors. However, the fact remains that he was in violation of the rules on the date in question and by behaving in such a fashion, he subjected himself to discipline.

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.

The record reveals that the Claimant had over ten years of service prior to this incident and had received no previous discipline. Given that lengthy service of the Claimant, the circumstances involved in this incident, and the nature of the

infraction, this Board must find that the Carrier acted unreasonably when it issued the Claimant a five-day suspension. Therefore, this Board hereby orders that the five-day suspension of the Claimant be reduced to a written warning and the Claimant shall be made whole for all lost earnings as a result of the suspension.

AWARD

Claim sustained in part. The five-day suspension is hereby reduced to a written warning and the Claimant is to be made whole for his lost pay resulting from the suspension.



PETER R. MEYERS
Neutral Member

Carrier Member

Organization Member

Dated: _____