

BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 1122

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
and
NORTHEAST ILLINOIS REGIONAL COMMUTER RAILROAD
CORPORATION
(Metra)

NMB Case No. 51

This dispute involves Mr. Anthony Moore employed by Metra as a B&B Mechanic.

On September 13, 2006, Mr. Moore was hand-delivered a letter instructing him to attend a formal investigation on September 27, 2006, in the Office of the Director of Engineering, Milwaukee District, 2931 W. Chicago Avenue, Chicago, Illinois, at 9:00 a.m.

The purpose of the investigation was to develop the facts, determine the cause, and assess responsibility, if any, in connection with his alleged failure to properly protect his position as B&B Mechanic at Roselle, Illinois, on September 13, 2006.

Mr. Moore was charged with alleged violation of Carrier's Employee Conduct Rule Q and Engineering Department Special Instruction No. 1, Paragraph Nos. 4 and 6.

The investigation was held as scheduled on September 27, 2006.

Following the investigation, Mr. Moore received a Notice of Discipline letter dated October 3, 2006, assessing him discipline of Three (3) work days

deferred suspension for violation of Carrier's Rules as charged for the incident occurring on September 13, 2006.

The transcript of the investigation held on September 27, 2006, provides the basis for this Board's adjudication of this dispute.

This dispute is before this Special Board of Adjustment established by agreement between the Brotherhood of Maintenance of Way Employees and the Northeast Illinois Regional Commuter Railroad Corporation (Metra) dated November 12, 1999, SBA No. 1122.

FINDINGS:

At the investigation held on September 27, 2006, Mr. James D. Renfrow, Director of Milwaukee District Engineering Department, was the Hearing Officer.

Mr. Robert Williams, Capital Bridge and Building Supervisor, and Mr. Larry Powell, General B&B Supervisor, appeared as witnesses for the Carrier.

Mr. Tim Petty, Local Chairman of Brotherhood of Maintenance of Way Employees Union, appeared as representative for Mr. Anthony Moore, the Claimant.

Mr. Robert Williams testified at the investigation that Mr. Moore called him at 5:00 a.m. on the morning of September 13, 2006, and stated that he would not be able to make it to work on time as it was raining real hard. Mr. Williams told Mr. Moore that he should call Mr. Powell and explain to him why he had to be off on that date. Mr. Williams further stated that Mr. Moore in his phone

conversation said that the streets in the area were flooded, and it was hard to get around.

Mr. Powell testified that Mr. Moore did call him on his cell phone, and he contacted Mr. Moore around 6:10 a.m. Mr. Powell testified that he told Mr. Moore that if he could not make it to the train station at Western Avenue where he would catch the train to Roselle, then he should drive straight to Roselle where he was assigned to work on that day. Mr. Powell testified that Mr. Moore told him that his car was not good enough to drive that far.

Mr. Moore testified at the investigation that on the morning of September 13, 2006, he went out his front door and noted that the street was flooded and the water was up to the bumper on some of the cars on the street. He further testified that he turned on the news, and it was reported that most of the streets and roads were shut down and were pretty impassible.

Mr. Moore testified that he then decided to call his bosses and alert them to the fact that he would not make it to work that day.

We have reviewed the testimony of Mr. Moore, Mr. Williams and Mr. Powell and their versions of what transpired on the date of the incident.

It is noted that Mr. Powell was going to be at Roselle, Illinois, on September 13, 2006, for the primary reason of discussing the absenteeism policy with Mr. Moore. (Carrier's Exhibit No. 5) The record for Mr. Moore shows that he has had prior incidents in being absent from work which prompted Mr. Powell to discuss the absenteeism policy with Mr. Moore on September 13, 2006.

We have reviewed the testimony of Mr. Moore and have difficulty in accepting his reason for not going to work on September 13, 2006. The fact that he observed water on the streets that may have been car bumper high does not reveal that the street was impassible.

Mr. Moore made no attempt to get to work. When Mr. Powell suggested that he should drive straight to Roselle rather than driving to the train station and taking the train from Western Avenue to Roselle, Mr. Moore said his car was not good enough to drive that far.

It is our opinion that Mr. Moore did not make any attempt to get to work, and there is no evidence in the record that precluded him from getting to work.

We can find no basis for overruling the discipline of Three (3) work days deferred suspension in this dispute.

Accordingly, it is the decision of the Board that the Claim be denied.

AWARD:

Claim denied.

Charles J. Chamberlain

Charles J. Chamberlain
Neutral Member

Date December 20, 2006