

PARTIES
TO
DISPUTE

St. Louis Southwestern Railway Company
and
Brotherhood of Maintenance of Way Employees

STATEMENT
OF CLAIM

- "1. Carrier violated the effective Agreement when Foreman Jerry R. Crosson was dismissed without just and sufficient cause on February 4, 1977.
2. Claimant Jerry R. Crosson be reinstated to a former position with pay for all time lost and with vacation and all other rights unimpaired. And his record be cleared of all charges."

FINDINGS

Upon the whole record, after hearing, the Board finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended, and that this Board is duly constituted under Public Law 89-456 and has jurisdiction of the parties and the subject matter.

Claimant was discharged after having been found guilty of playing cards and gambling at about 2:15 p.m. on February 4, 1977 while on duty. Pursuant to his request, the hearing was held on March 1, 1977 which resulted in the affirmation of his dismissal.

The evidence is clear and undisputed that the Claimant, a foreman, and three members of his gang were found at approximately 45 minutes past the completion of their regular lunch period playing cards in the back of their truck by the Roadmaster. All members of the gang including Mr. Crosson were dismissed.

The Organization alleges that Claimant was not gambling and further the penalty of dismissal in view of his six and a half years of service was harsh and excessive, particularly in view of the minor nature of the offense. The offense was characterized as having taken an extra 45 minutes of meal time and playing cards during that time. Carrier, on the other hand, contends that for a foreman, in particular, to engage in card playing during working hours with his gang is not only inexcusable but goes to the very

heart of Carrier's ability to manage its forces properly. Such conduct, according to the Carrier, cannot be condoned. Furthermore, Carrier characterizes Claimant's past record as being marginal and hence, feels that its penalty of dismissal was hardly excessive under the circumstances.

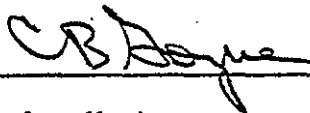
Whether Claimant was guilty of gambling or not is immaterial. It is clear and in fact, admitted that he was playing cards with his gang during working hours some thirty to forty minutes following the lunch period. Carrier's position that such conduct is inexcusable particularly for a supervisor must be supported. Regardless of Claimant's length of service, the penalty involved herein, under all the circumstances, cannot be characterized as harsh, discriminatory or in any other fashion, inappropriate. The claim must be denied.

AWARD

Claim denied.



I.M. Lieberman, Neutral-Chairman



Carrier Member

October 19, 1979
Houston, Texas



Employee Member