

SPECIAL BOARD OF ADJUSTMENT NO. 924

Award No. 122
Docket No. 131

PARTIES: Brotherhood of Maintenance of Way Employees

TO :

DISPUTE: Chicago and North Western Transportation Company

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood that:

- (1) The dismissal of M.B. White for conduct unbecoming an employee and making false statements when requesting vacation authority was without just and sufficient cause, on the basis of unproven charges and in violation of the Agreement. [Organization File 7SW-1199 D; Carrier File 81-87-121]
- (2) Claimant M.B. White shall be allowed the remedy prescribed in Rule 19(d)."

FINDINGS:

This Board, upon the whole record and all the evidence, finds and holds that the employees and the Carrier involved are respectively employees and Carrier within the meaning of the Railway Labor Act as amended and that the Board has jurisdiction over the dispute herein.

On April 13 and 14, 1987, Claimant requested a total of two weeks' vacation time, stating that his brother-in-law had undergone surgery and was in critical condition. Carrier later learned that on April 14, 1987, Claimant had received a thirteen-day sentence on a charge of possession of a controlled substance. Claimant subsequently was directed to attend a formal investigation of the charges:

1. Your responsibility with your conduct unbecoming of an employee when you were convicted and sentenced for a felony possession of a controlled substance on April 14, 1987.
2. Your responsibility in connection with making false statements requesting vacation authority on or about April 14, 1987 and requests for extension of the vacation thereafter.

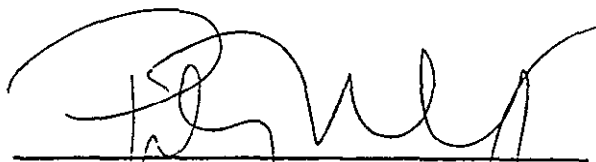
The investigation was held as scheduled, and a copy of the transcript has been made a part of the record. We find that the investigation was conducted in a fair and impartial manner.

This Board has reviewed the evidence and testimony in this case, and we find that there is sufficient evidence in the record to support the Carrier's finding that the Claimant was guilty of conduct unbecoming an employee when he was convicted and sentenced for felony possession of a controlled substance and was also guilty of making false statements requesting vacation authority on or about April 14, 1987.


Once this Board has determined that there was 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 it to have been unreasonable, arbitrary, or capricious. Given the nature of the offenses of which the Claimant was found guilty, this Board cannot find that the Carrier's action in dismissing the Claimant was improper. Therefore, the claim will be denied.

Award:

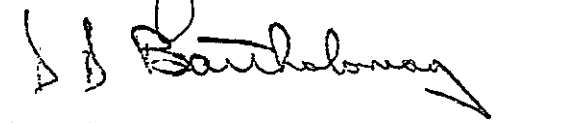
Claim denied.



Neutral Member



Carrier Member



Organization Member

Date: Sept. 23, 1988