

BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 924  
BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES  
and  
CHICAGO & NORTH WESTERN TRANSPORTATION COMPANY

Case No. 199

Award No. 172

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

1. The dismissal of Foreman A. Perkins for alleged falsification of a work report was without just and sufficient cause, based on unproven charge and excessive and disparate (Organization File 9KB-4803D; Carrier File 81-91-165).
2. Foreman A. Perkins shall be reinstated with seniority and all other rights unimpaired and compensated for all wage loss suffered in accordance with Rule 19(d) of the Agreement.

FINDINGS:

Claimant, a foreman assigned to the section gang at Proviso, Illinois, was dismissed from service after he was found guilty of allegedly submitting a false work report on June 13, 1991, while he and his crew were installing crossties. Claimant and his crew were allegedly observed by the Manager of Maintenance Operations heading for lunch at 11:35 a.m. and returning to their work stations at 12:30 p. m. The Claimant, however, in his daily work report stated that he and his crew took a 30 minute lunch from 12 noon to 12:30 p. m. Subsequently, the Carrier held an investigation and based on the Claimant's conflicting testimony, the Carrier dismissed him from service.

The Organization filed a claim on behalf of the Claimant and the parties being unable to resolve the issue, this matter came before this Board.

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 finding that the Claimant submitted false work reports and time information which was used by payroll for pay compensation on June 13, 1991. The record is clear that the Claimant took nearly one hour for lunch but that is not what is reflected in his work report. Claimant admits that he did not look at his watch and yet he still reported his time.

Once this Board has determined that there is sufficient evidence in the record to support the guilty findings, 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 was placed on the Carrier's disciplinary system in July of 1986 and has previously received five and ten-day actual suspensions. Under the Carrier's disciplinary system, the Claimant's next violation of Carrier Rules would lead to dismissal. In this case, the Claimant was found guilty of an offense which can be considered a type of "stealing" from the Carrier. Given the seriousness of the offense of which the Claimant was found guilty, and his previous disciplinary record, this Board cannot find that the Carrier acted unreasonably when it terminated his employment. Therefore, the claim will be denied.

AWARD

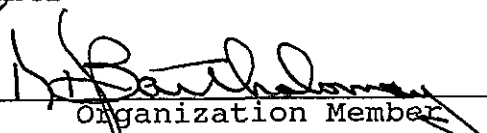
Claim denied.



PETER R. MEYERS  
Neutral Member



Carrier Member



Organization Member

Dated:

June 23, 1993