

SPECIAL BOARD OF ADJUSTMENT NO. 924

Award No. 19
Docket No. 23

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 twenty (20) day suspension and disqualification of Foreman J. S. Summerhill for allegedly failing to properly perform his duties and falsification of work reports was without just and sufficient cause, on the basis of unproven charges, and unwarranted. (Organization File 3D-3506; Carrier File 8T-83-40-D).
- (2) Foreman J. S. Summerhill 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 employee and the Carrier involved, are respectively employee and Carrier within the meaning of the Railway Labor Act, as amended, and that the Board has jurisdiction over the dispute herein.

Claimant, with about twelve years of service, was observed by two Carrier officers engaging in a conversation with a signal maintainer for about thirty minutes between 11:09 A.M. and 11:37 A.M., on October 29, 1982. Claimant was subsequently notified to attend an investigation on November 5, 1982, on the charge:

"Your responsibility for failure to properly perform your duties and falsification of work reports between 11:10 A.M. and 12 Noon on October 29, 1982."

The investigation was conducted as scheduled and a copy of the transcript has been made a part of the record. Following the investigation, claimant was assessed discipline of twenty days suspension and disqualified as a foreman. We have carefully reviewed the transcript of the investigation and find that it was conducted in a fair and impartial manner. Discipline was warranted. However, permanent disqualification as a foreman was excessive. We will award that claimant's rights as a foreman be restored within thirty days from the date of this award, but will deny any claim for compensation for time lost.

The Organization has raised procedural contentions that the officer who conducted the investigation did not render the

disciplinary decision, and that the deciding officer also served as first appeals officer. This Board has heretofore passed upon similar procedural contentions in our Awards Nos. 9, 14, and 16. We consider these decisions controlling and will deny the Organization's procedural contentions herein.

A W A R D

Claim sustained to the extent indicated in Findings.

ORDER

The Carrier is directed to comply with this Award within thirty days from the date hereof.

Paul C. Carter
Chairman, Neutral Member

J. B. Crawford
Carrier Member

W. J. Hanger
Labor Member

Dated: 5/8/84