

BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 924

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
and
CHICAGO & NORTH WESTERN TRANSPORTATION CO.

Case No. 236. *AWARD 212*

STATEMENT OF CLAIM: Claim of the Brotherhood that:

1. The ten (10) day suspension assessed Mr. W. C. Schulte for allegedly absenting himself from work without proper authority on June 10, 1993 was without just a and sufficient cause and excessive punishment (Organization File 8RP-5141D; Carrier File 81-93-128).
2. Mr. W. C. Schulte shall now have his record cleared of the incident and be compensated for all wage loss suffered in accordance with Rule 19(d).

FINDINGS:

Claimant W. C. Schulte was employed by the Carrier as a machine operator in the Wausau, Wisconsin area.

Prior to the date of June 10, 1993, the Claimant had requested to take off June 10 as a personal day, but his request was denied.

On June 10, 1993, Claimant allegedly had brake problems with his personal vehicle and, therefore, was unable to drive himself to his designated work site. The Claimant twice attempted to call his supervisor at the office, but each time the calls were answered by an answering machine. The Claimant, therefore, left a message for his supervisor that he would not be able to report for work because of car problems.

As a result, the Claimant was charged with absenting himself from work without

proper authority. A formal investigation was held on June 22, 1993. The Claimant was found guilty and assessed a ten-day suspension.

The parties not being able to resolve the issue, this matter comes 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 was guilty of absenting himself from work without proper authority on June 10, 1993. The Claimant admitted at the hearing that he did not receive verbal or written authority to be absent on June 10, 1993. Moreover, it is clear from the record that the Claimant had requested the day off as a personal day; and that request had been turned down because there was a lot of work to do, the supervisor needed the manpower, and the Claimant had not indicated any reason for his need of the personal day. The fact that the Claimant was denied the personal day off for June 10, 1993, raises some suspicion about his statements that he was unable to come to work because he had car trouble. However, irrespective of that issue, the fact remains that he was absent and he did not have permission to be off that day.

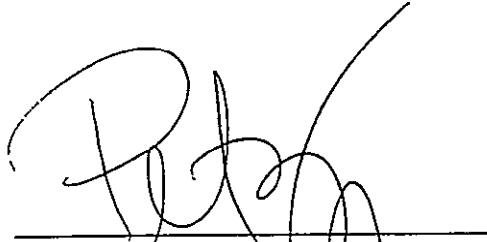
Once this Board has determined that there is sufficient evidence in the record to support the guilty finding, we next turn our attention to the type of discipline imposed. This Board will not set aside a Carrier's imposition of discipline unless we find its actions to have been unreasonable, arbitrary, or capricious.

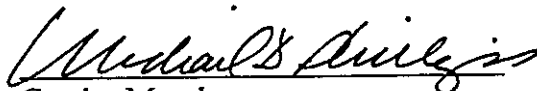
The Claimant's personnel record indicates that he has previously received a five-

day suspension. Given the Carrier's disciplinary progression, the next discipline to be issued to the Claimant for wrongdoing is a ten-day suspension. This Board cannot find that the ten-day suspension issued the Grievant for his being absent without permission was unreasonable, arbitrary, or capricious. Therefore, the claim must be denied.

AWARD

Claim denied.



PETER R. MEYERS
Neutral Member

Carrier Member

Organization Member

DATED: 4-19-95

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