

SPECIAL BOARD OF ADJUSTMENT NO. 924

Award No. 30
Docket No. 35

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 sixty (60) day suspension assessed B&B Carpenter Maurice Shaw for his alleged responsibility for leaving the Suburban Division Class at approximately 11:00 a.m. on September 7, 1983 and responsibility for his absence on September 8, 1983 was without just and sufficient cause and capricious. (Organization File 9D-4068; Carrier File 84-84-14-D).
- (2) B&B Carpenter Maurice Shaw 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.

The claimant herein is the same as involved in our Award No. 29.

In the present case claimant was, on September 7, 1983, attending a safety training seminar at Carrier's Suburban Division headquarters, when, at about 11:00 a.m. he was summoned from the classroom by a suburban Division clerk, acting upon the request of two Chicago City Police officers. He was escorted from the property by the Police Officers, and did not return to class. He was also absent from his assignment the following day, September 8, 1983. On September 12 and September 13, 1983, claimant was notified to attend separate investigation on the charges:

"To determine your responsibility in connection with your absence from your assignment on September 8, 1983".

"To determine your responsibility in connection with your departure from the Suburban Division Safety Class at approximately 11:00 a.m. on September 7, 1983".

By agreement, one hearing was conducted on the two charges. A transcript of the hearing has been made a part of the record. Following the hearing, claimant was assessed discipline of sixty days actual suspension.

Rule 14 of Carrier's General Regulations and Safety Rules provides:

"Employees must report for duty at the designated time and place. They must be alert, attentive, and devote themselves exclusively to the Company's service while on duty. They must not absent themselves from duty, exchange duties with or substitute others in their place, without proper authority."

In the investigation claimant's Supervisor testified that when claimant left the safety training seminar, about 11:00 a.m. on September 7, 1983, he did not notify anyone that he would not be back, and on September 8, 1983, claimant was absent from work without notice to him (the Supervisor).

Claimant testified in the investigation that he was placed under arrest by the City Police officers, taken to the Police station and was in jail on September 7 and 8, 1983. He contended, however, that he had permission from the Instructor of the Safety Class to leave. He testified that he could not return to work until he had completed the Safety Class, which was not done until September 15, the Instructor not being available on September 9. The Supervisor testified that it should have taken claimant about one hour to complete the Safety Class, which claimant could have done on September 8, 1983. Claimant stated that he was released about noon on September 8. He also stated that the reason for his arrest and incarceration was a case of mistaken identity, and that no charge was made against him by the Police officers.

It has often been held that incarceration is not a valid excuse for absenteeism. There is no proper basis for the Board to disturb the discipline imposed by the Carrier.

A W A R D

Claim denied:

Paul C. Carter
Chairman, Neutral Member

J. D. Crawford
Carrier Member

H. G. Harper
Labor Member

Dated: April 16, 1985.