

SPECIAL BOARD OF ADJUSTMENT NO. 924

Award No. 62
Docket No. 92

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 thirty (30) day suspension assesses Trackman P.J. Metoyer for alleged unauthorized absence was without just and sufficient cause. [Organization File 9D-4886; Carrier File 81-85-9-D]
- (2) Trackman P.J. Metoyer 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.

Claimant was scheduled to work on Sunday, September 9, 1984, at 6 a.m. on an overtime basis. Claimant did not report for work as scheduled. Claimant was notified to report for investigation, to be conducted on September 14, 1984, of the charge:

"To determine your responsibility in connection with your absence from duty on September 9, 1984."

After two postponements, the investigation was conducted on September 28, 1984. 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.

The Organization contends that the Claimant's automobile broke down on his way to work on September 9, 1984. The record shows that Claimant placed a call to the Roadmaster's office at approximately 6:15 that morning, but no one answered. The record further shows that the Claimant arrived at the job site approximately seven minutes late that day. The Organization further contends that a thirty-day suspension for a one-day absence caused by mechanical failure of an automobile is undue punishment.

The Carrier contends that the charges against the Claimant were proven. The record establishes that the Claimant did not report for work at the designated place and time on September 9, 1984, nor did he receive permission to be absent. Claimant did not advise Carrier that he was having trouble in

reaching work. Further, Claimant's record shows a history of absenteeism. The assessed discipline was therefore neither arbitrary nor unreasonable.

This Board has reviewed all of the testimony and other evidence in this case, and it finds that the Claimant did not report for work as scheduled on Sunday, September 9, 1984, at 6 a.m. He acknowledged that he did not report on time after being scheduled for the overtime work. That failure to appear on a day when he was supposed to work subjected the Claimant to discipline. Although he claims that he was only seven to ten minutes late and that his gang had already left for work, there is no evidence that he attempted to contact the Carrier in order to explain his late arrival. Hence, the Carrier was fully within its rights when it imposed discipline against the Claimant.

Once this Board determines that a carrier has met its burden of proof and was justified in imposing discipline on a claimant, we then turn our attention to the extent of discipline involved. This Claimant received a thirty-day suspension. A review of his previous record shows two previous suspensions for thirty days, as well as a sixty-day suspension and a dismissal, which was later reduced to a lengthy suspension. Hence, the Claimant has been afforded more than the necessary steps in the progressive discipline system. Consequently, a thirty-day suspension for the infraction involved is not unreasonable, arbitrary, or capricious, and this Board will not set it aside.

AWARD:

Claim denied.

Chairman, Neutral Member

Carrier Member

Labor Member

Date: April 9, 1986