

SPECIAL BOARD OF ADJUSTMENT NO. 924

Award No. 7/
Docket No. 80

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 Assistant Foreman M.L. Irvin for his alleged responsibility in connection with an altercation to T.A. Jansen was without just and sufficient cause. [Organization File 4D-4692; Carrier File 81-84-232-D]
- (2) Assistant Foreman M.L. Irvin 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 employed as an assistant foreman at Carroll, Iowa and has a seniority date of October 20, 1975. On July 5, 1984, Claimant became involved in an altercation with a Track Supervisor. Claimant then was directed to appear at a formal investigation of the following charge:

Your responsibility in connection with incident when altercation occurred between yourself and T.A. Jansen on July 5, 1984 at approximately 5:05 P.M.

The investigation was held as scheduled, and 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. We do not find any violation of the Claimant's rights because the Claimant was not allowed to introduce the statement that he contended supported his

position. The statement was properly excluded because it had no connection with the incident under investigation.

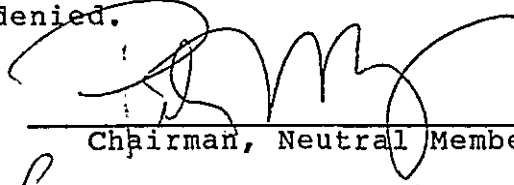
With respect to the substantive issue, it is clear from the record that the Claimant violated Carrier rules prohibiting engaging in an altercation. The Claimant struck the track supervisor on several occasions, causing injury which required medical treatment. There is sufficient evidence in the record that the Claimant was properly found guilty of violating Rule 12 of the Carrier's General Regulations and Safety Rules, which states:


Employees must not enter into altercation with any other person, regardless of provocation, but will make note of the facts and report such incident in writing to their immediate supervisor.

Once this Board has determined that a Claimant has been properly found guilty after a due process hearing, this Board next turns its attention to the type of discipline imposed by the Carrier. The record reflects that this is the second time that the Claimant has been disciplined for engaging in an altercation; and consequently we find that the 60-day suspension imposed in this case is not arbitrary, unreasonable, nor capricious. Hence, we must deny the claim.

AWARD:

Claim denied.


Chairman, Neutral Member


Carrier Member


Employee Member

Date: Sept-23, 1986