

SPECIAL BOARD OF ADJUSTMENT NO. 924

Award No. 83
Docket No. 91

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 Trackman R.E. Lue for alleged failure to comply with instructions issued by Roadmaster E.W. Henry was unwarranted, unsupported and unjust. [Organization File 4D-4906; Carrier File 81-85-58-D]
- (2) Trackman R.E. Lue 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.

On September 19, 1984, Claimant contacted his supervisor to report his absence due to pain from an earlier on-the-job injury. His supervisor directed Claimant to report to the Blair Roadmaster's Office for an appointment with a company physician. Claimant notified that office that he would not report for the scheduled examination. Claimant subsequently was directed to attend a formal investigation of the charge:

Your responsibility for your failure to comply with instructions issued by E.W. Henry, Roadmaster to report to Blair Roadmaster's Office on Wednesday, September 19, 1984 and your failure to report for a medical examination scheduled for 11:45 A.M. at Cogley Clinic as directed by the ADM-E's Office on Wednesday September 19, 1984.

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.

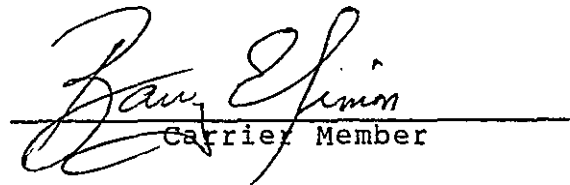
This Board has reviewed all of the evidence and testimony in this case, and we find that there is sufficient evidence in the record to support the Carrier's finding that the Claimant was guilty of failure to comply with the instructions issued by his supervisor. Consequently, the Carrier had the right to issue discipline to him. Although the Claimant believes that he had a good reason for not complying with the Carrier's request to report for a medical examination, the rule in this industry, as in many others, is that one must comply first and then file a grievance if the employee believes that the order is improper. In this case, the Claimant did not comply with the order and therefore subjected himself to discipline.

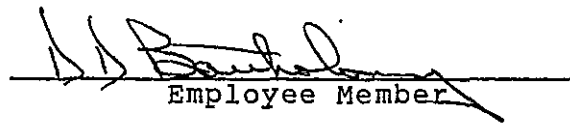
The Organization argues that the 60-day suspension was excessive under the circumstances. However, this Board has reviewed the extensive discipline record of this Claimant and believes that the 60-day suspension for this fifteenth disciplinary action of this Claimant during his six years of employment is not unreasonable, arbitrary, or capricious.

Award:

Claim denied.


 Chairman, Neutral Member


 Carrier Member


 Employee Member

Date: February 25, 1987