

SPECIAL BOARD OF ADJUSTMENT NO. 924

Award No. 36
Docket No. 96

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 ten (10) day deferred suspension and disqualification as foreman assessed Gang Foreman D.E. Walp was without just and sufficient cause and on the basis of an unproven charge.
[Organization File 2D-4653; Carrier File 81-84-210-D]
- (2) Claimant D.E. Walp 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 June 25, 1984, Claimant was observed working without a shirt, and an employee under Claimant's supervision was observed working without a shirt, hard hat, and safety glasses. Claimant subsequently was directed to attend a formal investigation of the charge:

Your failure to comply with General Safety Rules and Regulations by not wearing a shirt while on duty Monday, June 25, 1984 and by allowing the employees working under your supervision to work unsafely by not complying with the General Safety Rules and Regulations.

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 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 failing to

comply with the general safety rules and allowing employees under his supervision to work unsafely.

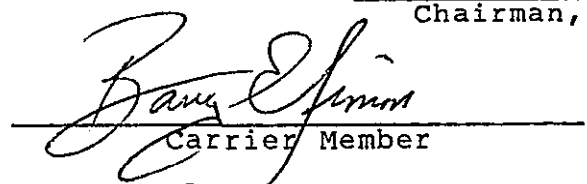
Claimant admitted that he was working without a shirt on on the date in question. The Claimant also admitted that he had people under his supervision who were not complying with the safety rules. Although Claimant contends that he did not remove his shirt because of the heat but for some other reason, the rule is clear that the employees are supposed to work fully clothed.

Once this Board determines that a carrier has properly found a claimant guilty of the offense with which he is charged, we next turn our attention to the type of discipline imposed. The Claimant received a ten-day deferred suspension for his actions of not complying with the rules; he also received disqualification as a foreman because he allowed employees under his supervision to not follow the rules. As a supervisor he is supposed to set an example for his employees, demonstrating compliance with the rules. This Board does not find that the action taken by the Carrier in imposing a ten-day deferred suspension and disqualification on the Claimant was unreasonable, arbitrary, or capricious. Therefore, the claim will be denied.

Award:

Claim denied.


Chairman, Neutral Member


Carrier Member


Employee Member

Date: April 3, 1987