

- SPECIAL BOARD OF ADJUSTMENT NO. 924

Award No. 94
Docket No. 106

PARTIES: Brotherhood of Maintenance of Way Employes
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 deferred suspension assessed Bridge Tender V.J. Huisingh in connection with her allowing an unauthorized person not employed by the Carrier to remain on Company property is in violation of the Agreement, improper, unwarranted and must not stand. [Organization File 7FL-3035; Carrier File 81-85-234-D]
- (2) Claimant V.J. Huisingh is entitled to 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 July 7, 1985, a Carrier Special Agent observed a non-employee in the Bridge No. 15 office and told Claimant that the non-employee could not remain on the bridge; approximately two hours later, the Special Agent observed the same individual leave the bridge and drive away. Claimant subsequently was directed to attend a formal investigation of the charge:

Your responsibility in connection with your allowing an unauthorized person not employed by the Carrier to remain on Company property between the hours of 8:41 P.M. to 10:45 P.M. while you were employed as a Bridge Tender at Bridge 15 on July 7, 1985.

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.

The Organization contends that Carrier failed to provide a full and accurate transcript of the proceedings; the Organization did not receive a copy of the Special Agent's report, and Carrier did not include two Organization exhibits. The Organization argues that the discipline therefore should be rendered null and void. The Organization also points to an inaccuracy in the transcript; the Special Agent observed the van, not the "man," sitting in the same position at 8:41 p.m. and 9:30 p.m. The Organization further argues that the assessed discipline is based on the Special Agent's suppositions and interpretations, and therefore cannot stand. The Organization asserts that after the Special Agent told Claimant that her friend could not remain on the bridge, Claimant's friend left the bridge to repair Claimant's car. The Special Agent later observed Claimant's friend leave the bridge after he returned Claimant's car keys upon completing the repairs. The Organization therefore asserts that the claim should be sustained.

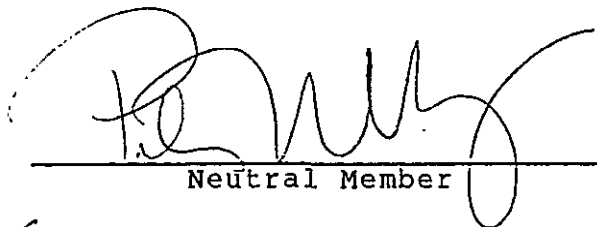
The Carrier argues that the charge against Claimant was proven, and the assessed discipline was warranted. The record shows that Claimant allowed a non-employee to remain on Company property for a considerable period of time without authorization. Carrier argues that even if the non-employee was present to assist Claimant with her car, there is no reason why the non-employee needed to be in the bridge office. Carrier points out that when the Special Agent arrived, the bridge was open, leaving the non-employee without access to the shore; Carrier argues that this indicates that the non-employee was there for some purpose other than repairing Claimant's car. Carrier contends that under the circumstances, the assessed discipline was lenient, and the claim should be denied in its entirety.

This Board has reviewed the evidence and testimony in the record, and we find that there is no merit to the Organization's contention that the Claimant was not guaranteed her procedural rights. Moreover, with respect to the merits, this Board finds that there is sufficient evidence in the record to support the finding that the Claimant was guilty of the offense with which she was charged. The record is clear that the Claimant was warned that the non-employee should not remain on the bridge and that that non-employee was still on the bridge an hour later. The Carrier's rule restricting non-employees from the bridge and bridge office is reasonable, and the Claimant was clearly in violation of that rule.

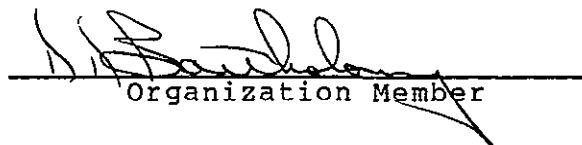
Once this Board has found that a claimant has been properly found guilty of the offense with which the claimant was charged, we next turn our attention to the type of discipline imposed. A 30-day deferred suspension in this case was not unreasonable, arbitrary, or capricious; and, therefore, the claim will be denied.

Award:

Claim denied.


Neutral Member


Carrier Member


Organization Member

Date: October 22, 1987