

SPECIAL BOARD OF ADJUSTMENT NO. 924

Award No. 95
Docket No. 107

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 disqualification of Machine Operator G.J. McBirnie for failure to adequately perform her duties and for alleged unauthorized absence was improper and in violation of the Agreement. [Organization File 2T-5105; Carrier File 81-85-76]
- (2) The disqualification must be stricken from Claimant McBirnie's record and she be compensated for all straight time and overtime lost as a result of the improper disqualification.

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 October 4, 1984, Claimant was disqualified as an Anchor Machine Operator because of her absence from duty on the previous day. The Organization subsequently challenged the disqualification and requested a hearing. A copy of the hearing transcript has been made a part of the record. Following the hearing, the claim was denied. We find that the hearing was conducted in a fair and impartial manner.

The Organization contends that Claimant did not have a reasonable opportunity to demonstrate her ability to operate the anchor machine. Moreover, Claimant is qualified for the position. The Organization asserts that the record does not support Carrier's contention that Claimant fell behind while operating the anchor machine. The Organization further argues that Claimant obtained a proper excuse from duty. The Organization contends that even if Claimant had failed

to obtain such a release, the discipline of disqualification was improper because there was no fair and impartial hearing prior to the assessment of discipline. The Organization therefore argues that the claim should be sustained.

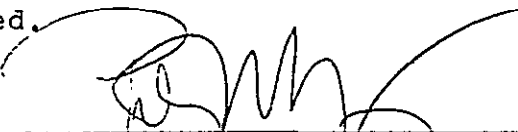
The Carrier asserts that Claimant's disqualification was in accordance with the rules and agreements. Carrier points out that Claimant acknowledged that she had sufficient time to be trained on the anchor machine; also, Claimant did not show that she was qualified for the position. Carrier argues that Claimant's disqualification was justified, and the claim should be denied in its entirety.

This Board has reviewed the evidence and testimony in this case, and we find that the Carrier acted improperly when it disqualified the Claimant without affording her a reasonable opportunity to demonstrate her ability to operate the anchor machine. Hence, the claim must be sustained.


The Claimant should have been offered a reasonable opportunity to demonstrate her ability on the job, and the Carrier did not comply with the requirement. Therefore, the claim will be sustained and all of the Claimant's rights will be restored.

Award:

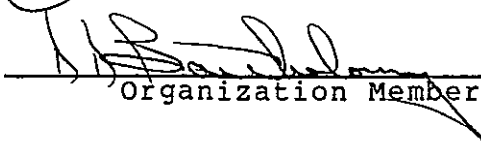
Claim sustained.



Neutral Member



Carrier Member



Organization Member

Date: October 22, 1987