

SPECIAL BOARD OF ADJUSTMENT NO. 986

Case No. 104

Docket No. NEC-BMWE-SD-2363D

PARTIES: Brotherhood of Maintenance of Way Employees

TO :

DISPUTE: National Railroad Passenger Corporation (Amtrak)

DISPUTE: Claim of the Organization that:

The discipline be removed from the Claimant's record  
and that he be compensated for all time lost resulting  
from such disciplinary action.

FINDINGS:

Claimant Herbert Smart was employed as a B & B Foreman at the  
30th Street Station, Philadelphia, PA. The Claimant was notified to  
attend a trial in connection with the following charge:

Violation of Rule F-5, "Employees must not sleep on duty,  
and must not be so inattentive to their jobs as to appear  
to be sleeping," and Rule O, "Employees must attend to their  
duties during assigned working hours."

The trial was held on December 8, 1988, and Claimant was found  
guilty of: assuming the attitude of sleep on Wednesday, August 24,  
1988, at approximately 11:00 a.m. in the "Atlantic City Office" of  
GETC 30th Street Station, Philadelphia, PA and assessed discipline of  
ten calendar days suspension. The organization thereafter filed a  
claim on Claimant's behalf, challenging his discipline.

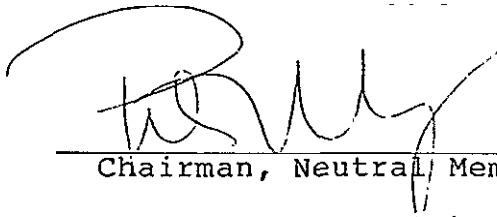
This Board has thoroughly reviewed the evidence and testimony in  
this case, and we hereby find that there is sufficient evidence in the  
record to support the finding that the Claimant was guilty of  
violating Rule F-5 and O of the Carrier's Rules of Conduct when he was  
observed on August 24, 1988, assuming the attitude of sleep. Although  
the Claimant states that when he was on the floor he was sitting and  
not on his back, the record still reveals that his eyes were closed

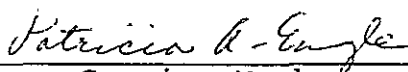
and he wasn't moving.

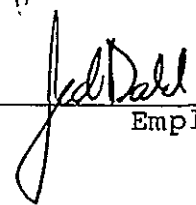
Once this Board has determined that there is sufficient evidence in the record to support the guilty finding, we next turn our attention to the type of discipline imposed. This Board will not set aside a carrier's imposition of discipline unless we find the carrier's action to have been unreasonable, arbitrary or capricious. Sleeping on the job has often led to discharge at this Carrier and other Carriers around the country. The Carrier, in this case, has exercised leniency by only issuing the Claimant a ten day suspension. This Board cannot find that the action taken by the Carrier in this case was unreasonable. Therefore, the claim must be denied.

Award:

Claim denied.

  
Chairman, Neutral Member

  
Carrier Member

  
Employee Member

Date: 2/22/90