

BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 986

Case No. 154

PARTIES: Brotherhood of Maintenance of Way Employees
TO :
DISPUTE: National Railroad Passenger Corporation (AMTRAK) -
Northeast Corridor

STATEMENT OF CLAIM: "Claim of System Committee of the
Brotherhood that:

1. The dismissal of Trackman J. Carter for alleged violation of Rules F.3, K and L was excessive, arbitrary, and capricious (System File NEC-BMWE-SD-3014D).
2. The Claimant shall be returned to the Carrier's service have his record cleared of the charges leveled against him, and paid for all wage loss suffered.

FINDINGS:

Claimant J. Carter, a trackman at Providence, Rhode Island, was instructed by his supervisor on October 24, 1991 to drive from Rhode Island to Delaware to obtain parts. He was given a Carrier vehicle, a Carrier credit card, and permission to stay overnight and return on October 25, 1991. On October 27, 1991, the Claimant contacted the Carrier and informed his supervisor that he was having personal problems and could not come back.

On October 30, 1991, the Claimant was notified that he was being withheld from service. After an investigation on February 20, 1992, the Claimant was dismissed from service for allegedly violating Rules F-3, K and L.

The Carrier contends that taking into consideration the Claimant's short length of service, it does not believe that it should be lenient in this case and, therefore, the Claimant was

properly assessed discipline.

The parties being unable to resolve the issues, this matter came before this Board.

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 finding that the Claimant was guilty of violating several Carrier rules when he failed to return to work after making the trip for the Carrier. Claimant's excuse that he suffered a relapse into substance abuse is simply insufficient to avoid being found guilty of the rule violations.

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 its actions to have been unreasonable, arbitrary, or capricious.

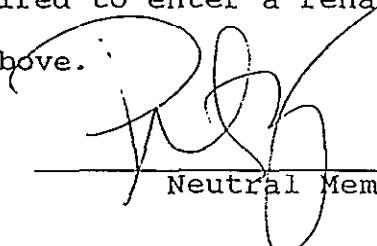
In the case at hand, the unique facts and circumstances have lead this Board to find that the Carrier acted arbitrarily when it permanently terminated the Claimant in the above-entitled case. We hereby order that the Claimant shall be returned to work but without backpay. He shall be required to enter a drug and alcohol rehabilitation program and he must regularly visit the EAP counselor for aftercare. This Board also orders that the Claimant must submit to quarterly drug and alcohol testing over a period of two years, and if there is any indication that he has returned to drug and alcohol use, he shall be immediately

discharged.

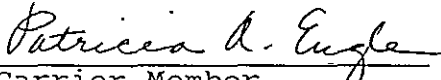
The Claimant has indicated that this is a regrettable incident and he has requested leniency. This Board has awarded leniency simply because of the unique circumstances involved in this case. The Claimant should recognize that any future wrongdoing on his part will most certainly lead to his discharge.

AWARD

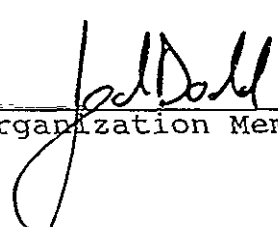
Claim sustained in part. Claimant is to be returned to service but is required to enter a rehabilitation and testing program set forth above.



Neutral Member



Carrier Member



Organization Member

Date: 5-25-93