

SPECIAL BOARD OF ADJUSTMENT NO. 986

Case No. 71

Docket No. NEC-BMWE-SD-1935D

PARTIES: Brotherhood of Maintenance of Way Employees
TO :
DISPUTE: National Railroad Passenger Corporation (Amtrak)

FINDINGS:

Claimant E. Gardner is employed as a work equipment engineer by Carrier at its Perryville, Maryland, facility. On July 16, 1987, Claimant was directed to attend a hearing in connection with the following charges:

Violation of NRCP (Amtrak) 2525 (09/85) Rules of Conduct, Rule "L" which reads in part:

Rule "L" . . . "Employees must obey instructions, directions, and other order from Amtrak supervisory personnel and officers except when confronted by a clear and immediate danger to themselves, property or the public . . ."

Specification: In that on Monday, July 13, 1987, at approximately 9:30 a.m. at the office of W.H. Sadowsky, M.D., an accredited company physician, located in Harve De Grace, Maryland, you failed to submit to a periodic physical as scheduled in your behalf and outlined in the Northeast Corridor "Special Instructions," Rule No. 100R-A1.

The hearing took place on August 27, 1987, and as a result, Claimant was assessed a time-held-out-of-service suspension, equalling twenty-seven working days. The Organization thereafter filed a claim on Claimant's behalf, challenging the suspension.

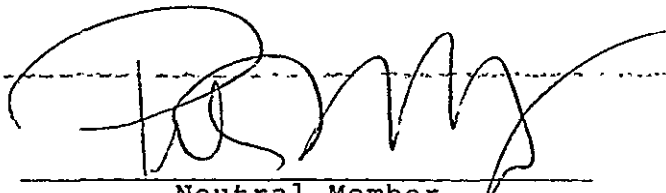
This Board has reviewed the evidence and testimony in this case, and we find that there is sufficient evidence in the record to support the finding that the Claimant was guilty of refusing the directions of his supervisors to take a periodical physical examination. Although the Claimant admits he refused to take the physical, he states that he had taken earlier physicals, including one just three months before, and that there was no need for the additional physical. However, the

rules in this industry are clear that if an employee disagrees with the direction from his supervisor, he must comply with that direction and file a grievance later. One cannot merely disobey instructions because one believes that an additional physical examination is unnecessary. Thus, there was a rule violation; and the Carrier was within its rights to issue discipline to the Claimant.

Once this Board has determined that there is sufficient evidence in the record to justify discipline, we next turn our attention to the type of discipline imposed. In this case, the Claimant was given a 27-day suspension. This Board cannot find that the action taken by the Carrier was unreasonable, arbitrary, or capricious. Therefore, the claim must be denied.

Award:

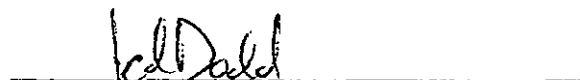
Claim denied.



Neutral Member



Carrier Member



Organization Member

Date: 11-16-88