

SPECIAL BOARD OF ADJUSTMENT NO. 986

Case No. 87

Docket No. NEC-BMWE-SD-2127D

PARTIES: Brotherhood of Maintenance of Way Employees

TO :

DISPUTE: National Railroad Passenger Corporation (Amtrak)

FINDINGS:

Claimant J. McKinney was employed by Carrier at its Adams MW base. On January 29, 1988, Claimant was notified to attend a hearing in connection with the charges:

Alleged violation of the National Railroad Passenger Corporation Rules of Conduct Rule "F", which reads in part: "5. Employees must not sleep on duty, and must not be so inattentive to their jobs as to appear to be sleeping," in that, on January 26, 1988, at approximately 11:20 A.M. you were observed assuming an attitude of sleep in a trailer at the Adams M/W Base.

Alleged violation of the National Railroad Passenger Corporation Rules of Conduct Rule "O", which reads in part: "Employees must . . . attend to their duties during assigned working hours. Employees may not be absent from their assigned duties . . . without the permission from their supervisor," in that, on January 26, 1988, you were observed to be away from your assigned work location without permission at approximately 11:15 A.M.

The hearing took place on March 3 and April 18, 1988, and as a result, Claimant was assessed a ten-day suspension, with an additional fifteen-day suspension that was held in abeyance. The Organization thereafter filed a claim on Claimant's behalf, challenging the discipline.

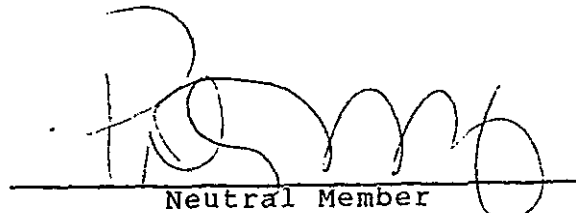
This Board has reviewed the evidence and testimony in this case, and we find that there is sufficient evidence in the record to support the finding that the Claimant was guilty of assuming an attitude of sleep while on duty on the date in question. Therefore, the Carrier had sufficient reason to issue discipline to the Claimant.

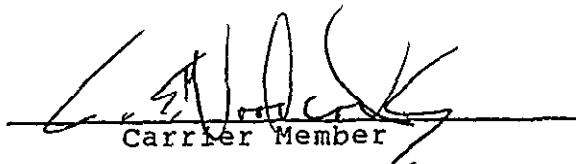
Once this Board has determined that there is sufficient evidence in the record to support the guilty finding, we next turn our

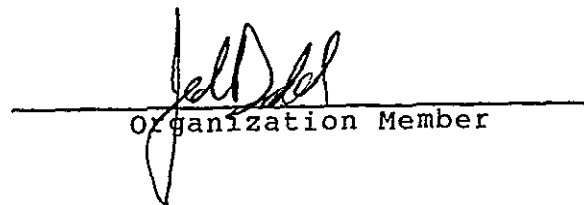
attention to the type of discipline imposed. Sleeping on the job has been held to be a sufficient basis for discharge in many previous cases. In this case, the Carrier only assessed the Claimant a ten-day suspension which activated a previous fifteen-day suspension that was held in abeyance. This Board 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: 1-28-89