

SPECIAL BOARD OF ADJUSTMENT NO. 986

Case No. 88

Docket No. NEC-BMWE-SD-2150D

PARTIES: Brotherhood of Maintenance of Way Employees

TO :

DISPUTE: National Railroad Passenger Corporation (Amtrak)

FINDINGS:

Claimant C. Aliberti is employed as a trackman by Carrier in Perryville, Maryland. On December 23, 1987, Claimant was notified to attend a hearing in connection with the charges:

Charge(s): Violation of N.R.P.C. Rules of Conduct Rule L, which reads: "Obeying Instructions, Employees must obey instructions, directions and orders from Amtrak supervisory personnel and officers except when confronted by a clear and immediate danger to themselves, property, or the public. Insubordinate conduct will not be tolerated."

Violation of N.R.P.C. Rules of Conduct Rule Q, which reads in part: "When required, employees must take and pass examinations relating to their physical or mental conditions, skills, and knowledge needed for their jobs."

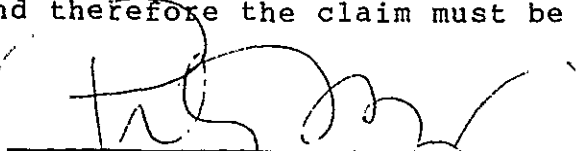
Specification: That you failed to present yourself for physical examination as directed by letter dated December 15, 1987.

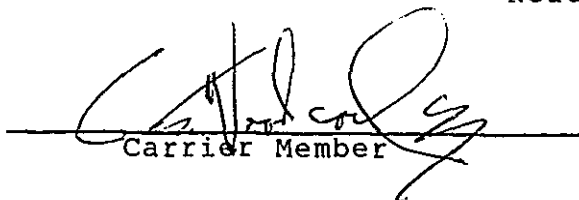
The hearing took place on March 21, 1988, and as a result, Claimant was assessed a sixty-day suspension. The Organization thereafter filed a claim on Claimant's behalf, challenging the suspension.

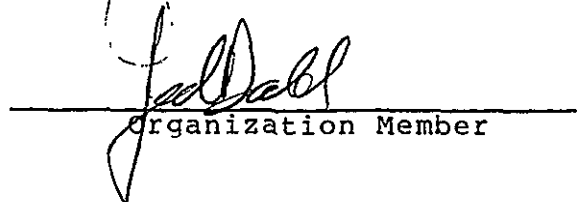
This Board has reviewed the evidence and testimony in this case, and we find that there is sufficient evidence in the record to support the finding that the Claimant engaged in insubordinate conduct. The record is clear that the Claimant failed to present himself for a physical examination as he was directed by the Carrier.

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 it to have

been unreasonable, arbitrary, or capricious. In this case, the Claimant received a sixty-day suspension for his insubordinate actions. This Board cannot find that the action taken by the Carrier was unreasonable, and therefore the claim must be denied.


Neutral Member


Carrier Member


Organization Member

Date: 1-26-81