

BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 1037

Case No. 16

PARTIES: Brotherhood of Maintenance of Way Employees  
TO :  
DISPUTE: CSX Transportation, Inc.

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

Dismissal of A. E. Brinson, ID# 171146, as a result of  
investigation held September 27, 1990 at Peachtree City,  
Georgia."

FINDINGS:

Claimant A. E. Brinson was issued a charge letter on September 18, 1990, instructing him to attend an investigation on September 27, 1990, to answer his "possible violation of Rule 17B of the current working agreement between the Seaboard System Railroad and its Maintenance of Way Employees" which resulted from the Claimant's alleged failure to protect his assignment on rail gang 5X11 from approximately May 16, 1990. Two certified letters concerning the Claimant's absence were sent to the Claimant, neither of which were receipted for.

A formal hearing was held on September 27, 1990, and as a result, Claimant was dismissed. The Organization thereafter filed a claim on Claimant's behalf, challenging his dismissal.

This Board has reviewed the record in this case and we find that there is sufficient evidence in the record to support the finding that the Claimant failed to protect his assignment since May 11, 1990. The record reveals on page 6 of the transcript that the Claimant admitted that he did not attempt to contact his supervisor, Mr. Watson, to inform him that he would not be coming in to work because he allegedly "was so depressed and sick about the problems I been having with my

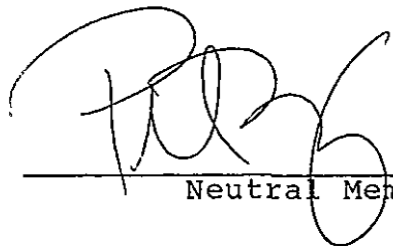
car and money that I just forgot." The Claimant also admitted to having received other mail at his address even though he denies having received any communications from the Carrier.

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 its action to have been unreasonable, arbitrary or capricious.

This Claimant had previously been discharged and had been warned on numerous occasions regarding his attendance. His failure to come to work or even notify his supervisors makes it clear that he did not really care about his job. This Board cannot find that the Carrier acted unreasonably, arbitrarily, or capriciously when it terminated his employment. The claim must be denied.

Award

Claim denied.

  
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Neutral Member

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Carrier Member

\_\_\_\_\_  
Organization Member

Date: \_\_\_\_\_