

BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 1037

Case No. 29

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 J. Dudley (ID# 196260) as a result of
investigation held on October 31, 1991."

FINDINGS:

Claimant was charged with several rule violations including Operating Rule 501, and CSX Transportation Rules 40, 920, and 922 in connection with charges covering dishonesty, making false statements concerning facts under investigation, and failure to immediately report an on-the-job injury. The hearing into the charges took place on October 31, 1991. Subsequent to the investigation, the Carrier dismissed the Claimant from service on November 18, 1991.

This Board has reviewed the file and we discover that Rule 39 states in Section 2 that:

...A decision in writing will be rendered within ten (10) calendar days from the close of the hearing. A copy of the transcript of the evidence taken at the hearing, and a copy of the decision, will be furnished the employee affected and his representative.

In this case, the decision in writing was not issued by the Carrier until eighteen days after the hearing. Since the rules require that a written decision be issued within ten days, the procedural rights of the Claimant were seriously violated.

This Board hereby orders that the Claimant be reinstated to service upon successful completion of a return-to-duty physical

and he be compensated for any time lost from November 7, 1991 which is ten days following the date that Claimant was approved to return to duty with no restriction following the examination by his personal physician.

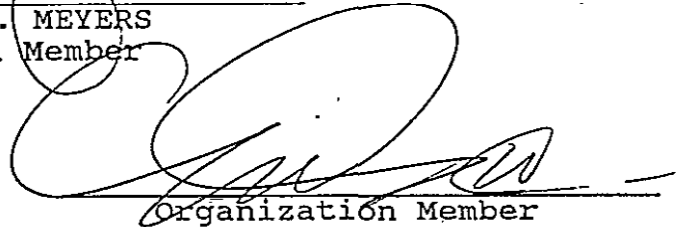
Additionally, Mr. Dudley's personal record shall be cleared of any reference to this incident.

AWARD

Claim sustained in part in accordance with the above findings.



PETER R. MEYERS
Neutral Member


Carrier Member
Organization Member

Dated: April 13, 1992