

BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 1037

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
and
CSX TRANSPORTATION, INC.

Case No. 44

STATEMENT OF CLAIM:

Claim that Mr. R. L. Lewis, ID # 139233, be cleared of the charges leveled, and made whole for all lost wages and benefits account being suspended from service for ninety (90) calendar days as a result of an investigation which was held on December 8, 1994, at Thomasville, Georgia.

FINDINGS:

Claimant R. L. Lewis was employed by the Carrier as a trackman in Thomasville, Georgia.

On November 23, 1994, the Carrier notified the Claimant to appear for a formal investigation into the charges that he violated Rule 17(c) and was insubordinate when he failed to follow Roadmaster B. R. Brooks' specific instructions as outlined in his letter to the Claimant on November 7, 1994, to provide the Carrier with medical documentation from his treating physician substantiating that he had incurred back injuries on Carrier property on September 27 and 29, 1994.

After one postponement, the hearing took place on December 8, 1994. On December 28, 1994, the Carrier notified the Claimant that he had been found guilty of the charges brought against him and was being assessed a ninety-calendar-day suspension, commencing January 31, 1995, and continuing through April 30, 1995.

The Claimant filed his appeal, challenging the Carrier's decision.

The parties being unable to resolve the issue, this matter comes before this Board.

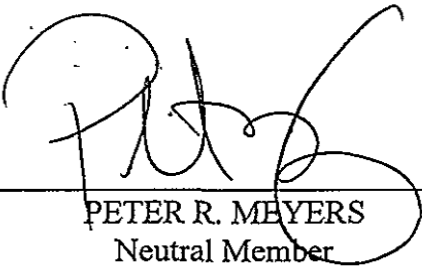
This Board has reviewed the evidence and testimony in this case, and we find there was sufficient evidence in the record to support the finding that the Claimant failed to furnish the Carrier, within ten days, a complete narrative report from his treating physician concerning his alleged on-the-job injury. The record reveals that the Claimant was sent a letter requesting his medical records within ten days, and he did not comply with that request. The Claimant admitted at the hearing that he never made an attempt to furnish his supervisor with the information that was requested. The failure of the Claimant to comply with the Carrier's legitimate request for medical documentation can be considered insubordination, of which the Claimant was guilty.

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 actions to have been unreasonable, arbitrary, or capricious.

The Claimant in this case received a ninety-day suspension for the insubordination, of which he was properly found guilty. Insubordination is a very serious offense and a severe penalty, sometimes even discharge, is often imposed in response thereto. In this case, this Board cannot find that the Carrier acted unreasonably, arbitrarily, or capriciously when it issued the Claimant the lengthy 90-day suspension. Therefore, the claim must be denied.

AWARD:

Claim denied.



PETER R. MEYERS
Neutral Member

Carrier Member

Organization Member

Dated: _____

Dated: _____