

BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 1040

Case No. 10

PARTIES: SOO LINE RAILROAD COMPANY

TO :

DISPUTE: BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

STATEMENT OF CLAIM:

Appeal of Claimant Walter J. Marusiak's, Extra Gang Foreman, removal from service on July 20, 1991, and time lost resulting therefrom for being argumentative and insubordinate to his immediate supervisor on said date.

FINDINGS:

Claimant Walter J. Marusiak was employed by the Carrier as an extra gang foreman in Illinois.

On July 23, 1991, the Carrier notified the Claimant that as a result of his actions on July 20, 1991, when he was insubordinate and argumentative to his immediate supervisor and subsequently sent home, his time out of service until he was instructed to return to work would be considered as the discipline assessed for the offense he committed. He was further instructed to report to duty on July 26, 1991, and assume the position of crane operator.

On July 24, 1991, the Organization, on the Claimant's behalf, requested that the Carrier agree to the scheduling of a hearing to determine the facts surrounding the assessment of discipline upon Claimant Marusiak.

The hearing took place on August 28, 1991. On September 6, 1991, the Carrier notified the Claimant that his discipline was being upheld and that the Carrier's actions were warranted and proper.

On September 10, 1991, the Claimant appealed his discipline and requested that this matter be brought before this Board.

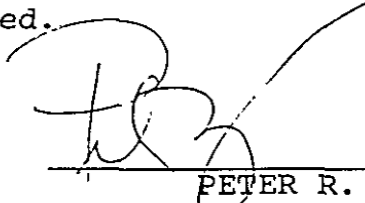
This Board has reviewed the testimony and evidence in this case and we find that there is sufficient evidence in the record to support the finding that the Claimant was guilty of being argumentative and insubordinate to his immediate supervisor on the date in question. The record reveals that the Claimant did not deny that he was hollering and screaming at his supervisor when he was receiving instruction from him. The record further reveals that the Claimant disagreed with the supervisor over the instructions that he received and reacted to the supervisor in an inappropriate manner.

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.

In this case, the Claimant received a two and one-half day suspension for being argumentative and insubordinate to his immediate supervisor. The Claimant's personnel record reveals that he received a previous ten-day deferred suspension in his 3 years of employment with the Carrier. Given the nature of the infraction of which the Claimant was properly found guilty, this Board cannot find that the Carrier acted unreasonably when it assessed him a two and one-half day suspension. Therefore, the claim will be denied.

AWARD

Claim denied.



PETER R. MEYERS
Neutral Member

Carrier Member

Organization Member

Dated: _____