

BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 1040

Case No. 15

PARTIES: SOO LINE RAILROAD COMPANY

TO :

DISPUTE: BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

STATEMENT OF CLAIM:

Appeal of Claimant John A. Davis, Sr.'s 20-working day deferred suspension, with a one-year probationary period.

FINDINGS:

Claimant John A. Davis, Sr. was employed by the Carrier as a machine operator.

On June 2, 1993, the Carrier notified the Claimant to appear for a formal investigation into charges that on May 24, 1993, at approximately 0845 hours near MP 90, North Milwaukee, Wisconsin, he was responsible for the collision between a tie crane and a tie inserter from Crew X36.

The hearing took place on June 11, 1993. On June 23, 1993, the Carrier notified the Claimant that he had been found guilty of the charges brought forth against him and was being assessed discipline of a 20-working day deferred suspension, with a one-year probationary period, effective that date.

On June 25, 1993, the Claimant appealed this matter to the Special Board of Adjustment.

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 was guilty of the negligent behavior with which he was charged. The record is

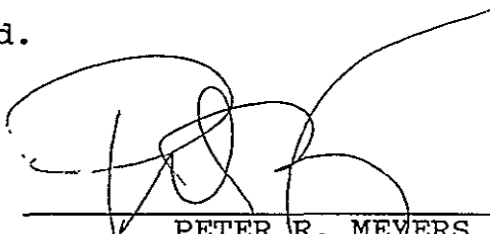
clear that the Claimant did not perform as he was instructed, which led, in part, to the accident.

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.

Given the nature of the infraction for which the Claimant was responsible and the previous disciplinary history of the Claimant, this Board cannot find that the action taken by the Carrier was unreasonable, arbitrary, or capricious. Therefore the claim will be denied.

AWARD:

Claim denied.



PETER R. MEVERS
Neutral Member

Dated: 7/20/93