

BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 1040

Case No. 2

PARTIES: SOO LINE RAILROAD COMPANY

TO :

DISPUTE: BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
(CHICAGO, MILWAUKEE, ST. PAUL & PACIFIC SYSTEM FEDERATION)

STATEMENT OF CLAIM:

Letter of reprimand assessed B. J. Adler, charging him with violation of the Safety Instructions 41, 42, and 45

FINDINGS:

On July 19, 1990, the Claimant, B. J. Adler, was observed on duty not wearing his hard hat and safety glasses, by Roadmaster J. D. Burshiem who, consequently, issued a letter of reprimand to the Claimant on July 24, 1990. An investigation was held on August 31, 1990, to determine the facts surrounding the letter of reprimand issued to B.J. Adler, and as a result, the letter of reprimand remained in Claimant's file. The Organization thereafter filed a claim on Claimant's behalf challenging his discipline.

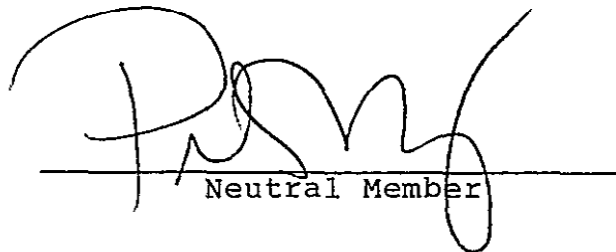
This Board has reviewed the evidence and testimony in this case and we find that there is sufficient evidence in the record to support the finding that the Claimant was guilty of violating the Safety Instructions 41, 42, and 45 when he was not wearing his hard hat and safety glasses while on duty on July 19, 1990. Although the Claimant contends that he was resting under a tree when he was caught without his safety glasses and hard hat, there is sufficient evidence in the record to establish that he was working on his job in an area where he should have been wearing the safety equipment. That action was in violation of the rules and the Carrier had every right to impose discipline.

Once this Board has determined that there is sufficient evidence in the record to support the guilty finding, we next must 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 the case at hand, the Claimant was issued a letter of reprimand. The record reveals that the Claimant has been employed by the Carrier since 1980 and had a fairly clean disciplinary history with the exception of a first warning in October of 1989. Given the fact that a written reprimand is one of the lowest forms of discipline for infractions of this kind, this Board cannot find that the action taken by the Carrier was unreasonable, arbitrary, or capricious. Therefore, the claim must be denied.

Award

Claim denied.



Neutral Member

Carrier Member

Organization Member

Date: _____