

BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 1040

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
and
SOO LINE RAILROAD COMPANY

Case No. 22

STATEMENT OF CLAIM:

Appeal of Claimant Armando A. Gonzales' dismissal from the Carrier's service.

FINDINGS:

Claimant Armando A. Gonzales was employed by the Carrier at its Muscatine, Iowa, welding department.

On June 16, 1994, the Carrier notified the Claimant to appear for a formal investigation into the charges that he allegedly absented himself from duty without authority on May 31, 1994, and claimed compensation and submitted personal expenses for time not worked on May 31, 1994.

After two postponements, the hearing took place on September 23, 1994. On October 7, 1994, the Carrier notified the Claimant that he had been found guilty of all charges and was being dismissed from the service of the Carrier effective that date.

On May 31, 1995, the Claimant advised the Carrier of his intention to appeal the discipline under the provisions of the agreement of June 1, 1990, and this matter is now before this Board.

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 failed to protect his assignment and then falsified time sheets and expenses for the work day of May 31, 1994. The

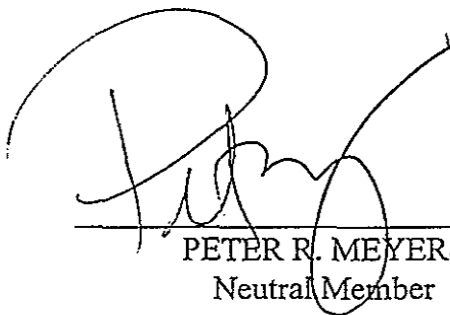
record reveals that the Claimant failed to contact his supervisor to get authority to be away from his work and then allowed himself to be paid and submitted personal expenses for that date, even though he did not show up for work.

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.

The Claimant's service record indicates that in his less than six years of employment with the Carrier, he has been suspended for five days, twenty days, and ninety days for failing to protect his assignment. In addition, he has been assessed a forty-five day suspension for another offense prior to this incident. Given the seriousness of the offense of which the Claimant was properly found guilty, and the previous disciplinary background that he has accumulated, this Board has no choice but to find that the Carrier acted within its rights when it terminated his employment. Therefore, the claim must be denied.

AWARD:

Claim denied.



PETER R. MEYERS
Neutral Member

Dated: June 7, 1995