

BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 1040

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
and
SOO LINE RAILROAD COMPANY

Case No. 24

STATEMENT OF CLAIM:

Appeal of Claimant William Welter's dismissal from the Carrier's service.

FINDINGS:

On January 12, 1995, the Claimant was verbally advised that he had been disqualified as a welder foreman because of his failure to maintain a valid driver's license. Furthermore, the Claimant was advised that he was restricted from holding any position which required a driver's license.

On January 17, 1995, the Carrier notified the Claimant to appear for a formal investigation on January 25, 1995, to determine the Claimant's responsibility for allegedly driving a Carrier vehicle with a suspended license, furnishing false information to Roadmaster Francke, failing to properly report driving record violations, and being tardy on January 12, 1995. The hearing was later postponed to February 10, 1995.

On February 23, 1995, the Carrier notified the Claimant that he had been found guilty as charged, and, subsequently, Claimant was dismissed from the Carrier's service.

On February 26, 1995, the Claimant advised the Carrier of his desire to appeal his

dismissal under the provisions of the Agreement 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 was guilty of violating several Carrier rules by driving a Carrier vehicle while holding a suspended license, furnishing false information to his supervisor, and failing to properly report his driving record. Claimant admitted at the hearing that he did not immediately tell his supervisors that his driver's license had been suspended and that "it took coaxing" before he told the Carrier representative. He also stated, "I really don't have a good answer for that", when asked why he continued driving a Carrier vehicle which he knew required a license when his license was suspended. Finally, it is clear that the Claimant left out pertinent information including other traffic violations and the fact that his driver's license had been suspended when he gave a written statement to the Carrier on May 6, 1994, indicating that he "got one speeding ticket in the last year of driving".

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.

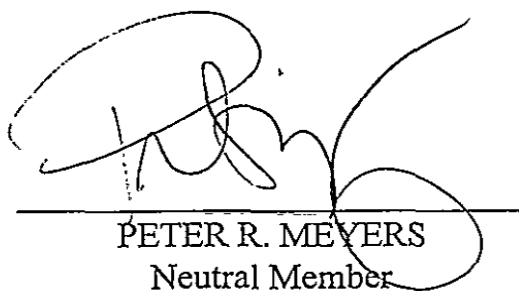
The Claimant in this case was properly found guilty of serious violations involving his honesty. He was aware that his job required a valid driver's license and he knowingly failed to notify the Carrier that he did not have a valid driver's license. In addition, he

admittedly held back information about previous driving violations in the past year when he notified the Carrier in writing that he had only one driving violation.

The Carrier elected to terminate the Claimant's employment because of these serious violations involving dishonesty. This Board cannot find that the Carrier acted unreasonably, arbitrarily, or capriciously when it made its decision to terminate the Claimant. The Claimant began his employment with the Carrier in June of 1991 and although his record was relatively discipline-free, this Carrier was acting within its authority when it terminated the Claimant for the dishonest acts of operating a Carrier vehicle with a suspended license and furnishing false information to the Carrier regarding his driving record. The Carrier could have potentially faced some serious ramifications if the Claimant was involved in an on-the-job accident after having not properly advised the Carrier of his background and current license situation. Although the action taken by the Carrier is severe, this Board is not in the position to rethink the decision made by the Carrier. We find that the Carrier's action in this case was not unreasonable, arbitrary, or capricious. Therefore, the claim must be denied.

AWARD:

Claim denied.



PETER R. MEYERS
Neutral Member

Carrier Member

Organization Member

DATED: _____

DATED: _____