

BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 1040
BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
and
SOO LINE RAILROAD COMPANY

Case No. 25

STATEMENT OF CLAIM:

Appeal of Claimant Jorge F. Mendoza's 40-day suspension
from the Carrier's service.

FINDINGS:

On August 25, 1995, the Claimant was notified to appear for a formal investigation to determine his responsibility, if any, in connection with his continued excessive absenteeism when he allegedly failed to protect his assignment on August 7, 14, 15, 16, 17, 18, and 22, 1995.

On September 22, 1995, the Claimant was notified that he was found guilty as charged and, therefore, he was being assessed a 40-day suspension from service.

The Claimant filed his appeal, challenging the Carrier's decision

The parties being unable to resolve the issue, this matter comes 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 failing to protect his assignment on seven days in August of 1995. That action on the part of the Claimant was a clear violation of the Carrier rules which state that it is

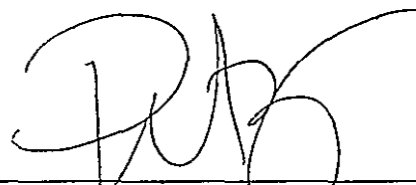
the employees' responsibility to be at work promptly on each day.

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 record reveals that he began his employment with the Carrier in 1990. He was issued a ten-day suspension for excessive absenteeism and tardiness in June of 1994 and a 20-day suspension for excessive absenteeism in January of 1995. Consequently, this Board cannot find that it was unreasonable or arbitrary to issue the Claimant a 40-day suspension for this latest similar incident of wrongdoing. The Claimant should be put on notice that any future incidents of this kind will most assuredly result in more serious discipline or discharge.

AWARD

Claim denied.



PETER R. MEYERS
Neutral Member

Carrier Member

Organization Member

DATED: _____

DATED: _____