

BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 1040

Case No. 3

PARTIES: SOO LINE RAILROAD COMPANY
TO :
DISPUTE: BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

STATEMENT OF CLAIM:

Appeal of Claimant Stephen Terwilliger's, Section Laborer, dismissal on January 7, 1991, for violation of General Code of Operating Rule 608.

FINDINGS:

Claimant, Stephen Terwilliger, was employed by the Carrier as a section laborer at its St. Paul, Minnesota, Section Tool House.

On January 2, 1991, the Carrier notified the Claimant that he was suspended from service for entering into an altercation on December 27, 1990. On January 7, 1991, the Carrier further notified the Claimant that he had violated General Code of Operating Rule #608, which he had been previously advised of by letter dated September 14, 1990, from the Carrier. As a result, the Carrier terminated the Claimant from service effective January 7, 1991. The Organization requested a hearing on the matter on January 9, 1991. On January 11, 1991, the Carrier scheduled a hearing for January 22, 1991. After the hearing, the Carrier notified the Organization and the Claimant, on January 30, 1991, that the dismissal of the Claimant would stand. On February 6, 1991, the Claimant appealed his dismissal and requested that this matter be brought before this Board.

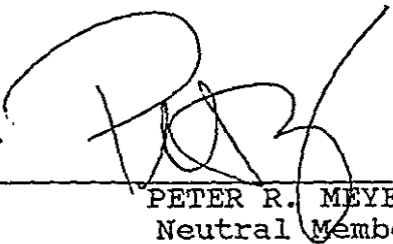
This Board has reviewed the evidence and testimony in this

case, and we find that the record contains sufficient evidence to support the finding that the Claimant was guilty of violating Rule 608, which prohibits fighting on the job. The record is clear from the testimony of several witnesses that the Claimant began an altercation with another laborer and put him in a headlock and was choking him. After the fight was broken up, the Claimant continued to harass the other laborer and invite him to go off the property to continue the fight. That behavior on the part of the Claimant was unquestionably a violation of the Carrier rules.

Once this Board has determined that there is sufficient evidence 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. In the case at hand, the Claimant was found guilty of fighting on the job. Although the Carrier could have imposed lesser discipline, the job of this Board is not to second-guess the Carrier's thinking. Fighting on the job is often a dismissible violation, even on the first offense. 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.



PETER R. MEYERS
Neutral Member_____
Carrier Member_____
Organization Member

Dated: _____