

BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 1040

**BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
and
SOO LINE RAILROAD COMPANY
(CMSP&P)**

Case No. 38

STATEMENT OF CLAIM:

Appeal of Claimant Dana Jones' suspension from the Carrier's service.

FINDINGS:

The Claimant was charged with excessive absenteeism and failing to protect his assignment on July 29, August 2, 9, 1996 and left work early on August 19, 1996. A formal hearing was held on September 26, 1996, and it was determined that the Claimant was guilty as charged and the Claimant was assessed a five actual working day suspension. The Organization took exception to the discipline imposed and filed the instant claim on behalf of the Claimant.

The parties being unable to resolve the issues, this matter comes before this Board.

This Board has reviewed the evidence and testimony in this case and we find that the Carrier properly charged the Claimant with failing to protect his assignment. At the hearing, the Claimant admitted that he did not work on the days set forth by the Carrier and the Claimant also admitted that he did not call in on some of those days. This Board finds that the Claimant was properly found guilty of violating the Rules requiring that an

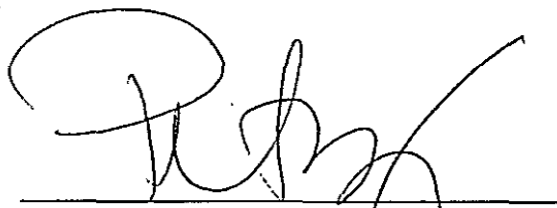
employee protect his assignment.

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 in this case received a five working day suspension. Given the seriousness of the offense, as well as the previous background of this Claimant, and the previous discipline issued by the Carrier to other employees for similar offenses, this Board cannot find that the Carrier acted unreasonably, arbitrarily, or capriciously when it issued the five day suspension to the Claimant. Therefore, the claim must be denied.

AWARD

Claim denied.



PETER R. MEYERS
Neutral Member

Dated: November 13, 1996