

BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 1040

Case No. 5

PARTIES: Brotherhood of Maintenance of Way Employees
TO :
DISPUTE: Soo Line Railroad Company

STATEMENT OF CLAIM: Claim of the Organization that:

The dismissal of Claimant J. T. Walters (laborer) on February 4, 1991, for violation of Safety Rule 562 and Safety General Rule A and General Code of Operating Rule 603 and General Code of Operating Rule General Rule A on January 31, 1991, was unwarranted.

FINDINGS:

Claimant J. T. Walters was employed by the Carrier as a laborer at Ottumwa, Iowa.

On February 4, 1991, the Carrier notified the Claimant that he was being dismissed from service effective that date for the following charge:

On January 31, 1991, . . . you were observed with weapons in your personal vehicle on Company property.

. . . violation of Safety Rule 562 and Safety General Rule A and General Code of Operating Rule 603 and General Code of Operating Rule General Rule A.

On February 5, 1991, the Organization, on behalf of the Claimant, requested a hearing into the matter. Thereafter, the Carrier notified the Organization on February 13, 1991, that the hearing in regards to the charges against Claimant Walters would commence on March 15, 1991. On March 22, 1991, the Carrier

notified the Claimant that his dismissal from service was upheld and that the action taken by the Carrier was warranted and proper. On March 27, 1991, the Claimant appealed his dismissal, and this matter came 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 Company Safety Rule 562 and General Code of Operating Rule 603 by having weapons in his personal vehicle on Company property.

The record reveals that the Claimant admits having driven his personal vehicle onto the Company property with a large collection of guns and knives, including a loaded 9 mm automatic pistol, brass knuckle knife with a blade approximately five inches in length, a Wesson .357 magnum revolver, a Ruger .22 automatic pistol, and a number of cartridges and clips, as well as two other knives.

Rule 603 prohibits employees from having firearms or other deadly weapons, including knives, in their possession while on duty or on Company property. The record reveals that the Claimant was stopped with those weapons in his automobile shortly after he left the Company property. Although he was not directly observed on Company property with those weapons, the Company had someone follow him to a point, where he was stopped and the weapons were in the car. There was no possibility of those weapons being put in the car prior to his being stopped. Therefore, one can assume that the weapons were in the Claimant's vehicle at the time he was on Company property. At the hearing,

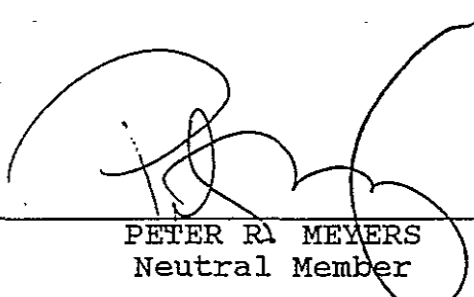
the Claimant admitted that the weapons were in his vehicle on Company property during the day.

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.

In the case at hand, the Claimant was dismissed for his violation of the rules. Despite the fact that he has been an employee for eleven years with the Carrier, this Board cannot find that the Carrier's action in terminating his employment was unreasonable, arbitrary, or capricious given the seriousness of the rule violation of which the Claimant was found guilty. This Board is not in the position to second-guess the Carrier, but only to determine whether or not there was sufficient cause for the discharge. This Board cannot find anything unreasonable, arbitrary, or capricious about the Carrier's action in terminating the Claimant. Therefore, the claim will be denied.

AWARD:

Claim denied.



PETER R. MEYERS
Neutral Member

Carrier Member

Organization Member

Date: _____