

BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 1122

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES  
and  
NORTHEAST ILLINOIS REGIONAL COMMUTER RAILROAD CORPORATION  
(Metra)

NMB Case No. 28

This dispute involves Mr. Michael R. Asher employed by Metra as a Machine Operator.

On January 14, 2003, Mr. Asher was assigned to drive a Metra snowplow truck #91061.

Mr. Asher's assignment on January 14, 2003, was to salt and plow Metra lots at Joliet Coach Yard, Blue Island Coach Yard, Blue Island Engineering and CCF.

Between the hours of 9:00 a.m. and 10:00 a.m. on January 14, 2003, Metra truck #91061 was observed by Mr. Dean Cashman, Superintendent of Maintenance for the Worth Park District of Worth, Illinois, coming out of an apartment complex at 11032 76<sup>th</sup> Avenue in Palos Hills, Illinois.

Mr. Cashman thought that it was unusual for a Metra truck to be coming out of a private apartment complex and decided to pull in a parking lot across the street from the complex and observed the operation of the Metra truck.

After observing the activity and operation of the Metra truck, Mr. Cashman notified Metra officials and met with Mr. Moses Richardson, Director of Engineering, Rock Island District, at about 2:00 p.m. on January 14, 2003, to

explain to him what he had observed between 9:00 a.m. and 10:00 a.m. on that date.

On January 22, 2003, Mr. Asher was hand delivered a letter instructing him to attend a formal investigation on Friday, January 31, 2003, for the purpose of developing the facts, determine the cause, and assess responsibility, if any, in connection with his unauthorized use of Metra's time and vehicle #91061 to spread salt in a parking lot of an apartment complex at 11020 through 11032 S. 76<sup>th</sup> Avenue in Palos Hills, Illinois, on Tuesday, January 14, 2003.

Mr. Asher was charged with alleged violation of Metra Employee Conduct Rule "Q", Paragraph #1 and Rule "N", Paragraph #3, Item #4.

On January 24, 2003, Mr. Asher was sent a Certified letter, Revised Notice of Investigation, which added an additional charge of Metra Safety Rule 1.19.

The letters of January 22, 2003, and January 24, 2003, to Mr. Asher are attached to this Award.

Mr. Asher was also sent a letter dated January 22, 2003, from Mr. Moses Richardson, removing him from service pending the investigation of the alleged incident involving Mr. Asher occurring on January 14, 2003.

Mr. Richardson's letter of January 22, 2003, to Mr. Asher is attached to this Award.

At the request of the Organization, it was mutually agreed to hold the investigation on January 30, 2003, and it was held on that date.

Following the investigation held on January 30, 2003, Mr. Asher received a Notice of Discipline letter dated February 7, 2003, dismissing him from service for violation of certain Carrier Rules and Regulations. The Notice of Discipline letter dated February 7, 2003, is attached to this Award.

The transcript of the investigation held on January 30, 2003, provides the basis for this Board's adjudication of this dispute

This dispute is before this Special Board of Adjustment established by agreement between the Brotherhood of Maintenance of Way Employees and the Northeast Illinois Regional Commuter Railroad Corporation (Metra) dated November 12, 1999. SBA No. 1122.

#### FINDINGS:

This dispute centers on an incident occurring on January 14, 2003, when Metra truck #91061 being operated by Mr. Michael Asher, the Claimant in this dispute, was observed by Mr. Dean Cashman, Superintendent of Maintenance for the Worth Park District of Worth, Illinois, entering and exiting an apartment complex at 11020 and 11032 76<sup>th</sup> Avenue in Palos Hills, Illinois.

Since Mr. Cashman was the person who observed and reported the incident to Metra officials, we deem it appropriate to quote from his transcript testimony at the January 30, 2003, investigation.

QUESTIONS BY MR. POWELL

ANSWERS BY MR. CASHMAN

Q Mr. Cashman, would you please state your full name and title again for the record?

A Dean Thomas Cashman, Superintendent of Maintenance for the Worth Park District, Worth, Illinois.

Q Mr. Cashman, did you observe a Metra vehicle on January 14, 2003?

A Yes, I did.

Q What was the vehicle number on this vehicle?

A The vehicle number was 91061.

Q Is this the vehicle that you saw?

A Yes, it is.

MR. POWELL: This will be Exhibit Number 5. The Committee is free to examine the exhibit.

(Document marked).

MR. GRANIER: No comments on the exhibit at this time.

BY MR. POWELL:

Q Where was this vehicle's location when you observed it?

A Coming out of an apartment complex at 11032 76<sup>th</sup> Avenue.

Q What was this vehicle doing at this location?

A It was spreading salt in the parking lot.

Q Did you see this taking place?

A Yes, I did.

Q How did you happen to see this taking place?

A I drove by there heading for the hardware store, which is right next door to the apartment buildings.

I seen the truck coming out of the parking lot and thought it was unusual that a Metra truck would be coming out of a private—not a Metra parking lot.

I pulled in the hardward store parking lot, turned around, went back, parked in the parking lot across the street by the church and watched the truck come out of the north driveway, turn and go south on 76<sup>th</sup> Avenue approximately to 11020.

As he turned and went in the south driveway, he turned the salt spreader back on and continued to the back of the property with the salt spreader running.

Q Was he running the salt spreader when he came out of the south entrance?

A When he came out of the north entrance, he was running the salt spreader. He shut it off on the road and then turned it back on when he went back into the loop, to the horseshoe.

Q The parking lot at this location makes a horseshoe-type configuration and comes back out?

A Yes. It is two pretty good size apartment buildings.

Q How many people did you or persons did you notice in the vehicle?

A I believe there were two people in the truck.

Q Did you inform Metra of this activity?

A Yes, I did.

Q Who did you contact?

A I called the Village of Worth, the Village Clerk, and she gave me a number at Metra, and I contacted – I can't think of his name now. I don't remember what his name was, but he in turn put me in contact with Moses Richardson.

Q So you actually talked to the Director of this District eventually about this activity?

A Yes. I believe his name was Cucher.

Q Did you explain to Mr. Richardson what took place?

A Yes.

Q Did you meet anybody out at the site?

A That afternoon around 2:00 o'clock, I met Mr. Richardson out at the site.

Q Do you remember what time of the day this took place?

A Between 9:00 and 10:00 o'clock in the morning. It was early morning because I was going to the hardware store.

MR. POWELL: I have no further questions of Mr. Cashman at this time, subject to redirect. You are free to question him.

QUESTIONS BY MR. GRANIER

ANSWERS BY MR. CASHMAN

Q Mr. Cashman, could you explain for me what loop the driveway makes? I just didn't quite understand that. You saw the truck going in at 11032?

A No. It came out of 11032.

Q It came out of 11032. It hit the highway and what? Went a block or two?

A The buildings face 76<sup>th</sup> Avenue. The front of the buildings face the east. 76<sup>th</sup> Avenue is a north/south street.

The two long runs of the parking lot are east/west, and they connect in the back north/south. So it is a pretty good size horseshoe.

When I first saw the truck, it was coming out of 11032. It turned right on 76<sup>th</sup> Avenue, which put it going south, drove down to 11020, made another right turn, which put it going west, turned the salt spreader back on and continued to the back of the property.

At that point, at the back of the property, it makes a loop going north to come back around to come out. It is a big circle is what it is with the street. The property itself is a horseshoe.

MR. GRANIER: No further questions at this time. I do reserve the right to redirect.

MR. PETTY: Time.

MR. POWELL: A recess is being called by the Organization.

We are also quoting from the transcript testimony by Mr. Asher, the Claimant, in response to questions from the Hearing Officer, Mr. Larry Powell, and response from Mr. Asher to questions asked by the Organization Representative, Mr. Hayward Granier.

#### QUESTIONS BY MR. POWELL

#### ANSWERS BY MR. ASHER

Q Mr. Asher, would you please state your full name and title for the record?

A Michael Ray Asher, Machine Operator.

Q Mr. Asher, do you work on the Rock Island District Engineering?

A Yes, sir.

Q On January 14<sup>th</sup>, were you assigned to drive a snowplow truck 91061?

A Yes, sir.

Q Did you salt and plow the lots at the Joliet Coach Yard, Blue Island Coach Yard, Blue Island Engineering and CCF?

A No, sir. I did not salt CCF. It had already been done.

Q Were you at the location of the address listed in the Notice of Investigation?

A Yes, sir, I was.

Q Is this location Metra property?

A No, sir.

Q Did you get authority to be there?

A No, sir.

Q Did you perform snow removal operations at this site?

A No, sir, I did not.

Q You have heard testimony earlier that you were seen salting the roadways and parking lots in that area. You are saying that you did not do that?

A Yes, sir.

Q Was there anybody else in the vehicle with you?

A No, sir.

Q Why were you at this address?

A Earlier in the day before the starting time, Mr. Marty DeVito was looking around the shop for his keys, and he had lost his keys.

And after I finished Joliet, we started – we didn't get an early call for snow, so everybody was kind of behind, and we was all kind of behind, and everywhere I went was really slick.

So after I got done at Joliet, I come down 6 to Southwest Highway, and I went by 179<sup>th</sup> Street, the Orland Park maintenance facility, to check and see if it was done.

Being on a weekday, I didn't think it was a good idea to get on the expressway.

MR. GRANIER: Excuse me. Could you please shut that phone off?



MR. POWELL: I just did.

MR. GRANIER: Thank you.

A I didn't think it was a good idea to get on the expressway. It seems like in a Metra vehicle, you are a target out there.

An so I went on down Southwest Highway. It is a direct route that goes northeast directly to CCF, which was my last stop for the day.

And after I went by 179<sup>th</sup> Street, it kind of clicked in my head, and I was checking the other stations on the route, and it kind of clicked in my head about Marty's keys.

I thought maybe he had dropped them, so I would swing in there and check and see if I could spot them, and that's the reason I was there.

Q Did Marty tell you to do that?

A No, sir.

Q Did Marty know you were going to go there?

A No, sir, he didn't.

Q Do you know what the keys were for?

A There was Metra shop keys on the ring. There was locks to the tool cabinets on the ring. And to be honest with you, that's why I was so disturbed about it because I knew what keys he had.

And just recently, we had had a theft in a track shop to where they stole company radios and equipment and so forth, and you never know what happens when something like that gets in the wrong hands.

Q So I take it that this address where this parking lot is at is where Marty DeVito lives?

A Yes, sir.

Q Did you check with Marty before you went there to see if he still was missing his keys?

A No. We all got out of there pretty early in the morning right directly after. Right directly after Dave told us we was doing snow duty, we all went our separate ways.

And like I said, the only reason I thought about it is because it was on the route, and it kind of clicked in my head. But no, I did not speak with Marty before I went in there.

Q So to your knowledge, you don't know if he had already found his keys or not?

A No, I didn't.

Q Where does Southwest Highway come in out of that location?

A Where does Southwest Highway? If you're coming out of the Joliet Coach Yard heading west, you run directly into Route 6. Route 6 turns into Southwest Highway.

Q Where does Southwest Highway then end?

A Southwest Highway runs directly into Kedzie at 74<sup>th</sup> Street.

Q So then it is not as direct a route as you indicated to CCF?

A It is absolutely a direct route. Then from Kedzie, you pick up Archer. That runs right into CCF. It is an absolutely direct route, without a doubt.

Q Which parking lot on your time sheet did you do first?

A As far as my daily, what I done, I went out and started the truck and the skidster. I put the truck over by the salt pile, went and got the skidster and loaded it up with salt.

I done Blue Island Engineering around the building here. I done the trainman's parking lot at Vermont Street, and I done Blue Island Tower.

I come back, and I reloaded and headed to Joliet. After I done Joliet, like I said, traffic was pretty bad, so I did take the expressway to Joliet. But coming back towards Chicago, it was backed up like it normally is, so I took Southwest Highway.

And from there, I went by 179<sup>th</sup> Street, and those guys had salted 179<sup>th</sup> Street already and 153<sup>rd</sup>. I did not go by Palos because it is an elevated platform, the same as Worth.

But from 153<sup>rd</sup>, I headed straight directly towards CCF. And somewhere in that time period is when the situation with Marty's keys popped in my head.

Q So you are saying you salted the Southwest Service areas?

A I inspected it. I didn't end up salting. Actually, I didn't salt the maintenance facility. I did end up dropping salt in from of the trailers for the capital guys down there directly right at 179<sup>th</sup> Street and got back on Southwest Highway from there.

The maintenance facility had already been salted. Whether it was done by our forces or the mechanical or the contractors, I can't say. All I know is that it had been salted already.

Q Was there other crews assigned to do that area during snow?

A Yes, sir, there is. But however, my instructions are I have a list, the list that you see on my time sheet, and to help out wherever I can because I have a broad list of duties, being the only big truck that we have.

Q At the end of the day, did you tell Mr. DeVito that you had been there to check and see for his keys and couldn't find them?

A Yes, sir. It was before the end of the day. I got back here somewhere around noon and cleaned my truck and washed out the spreader.

And when Marty come back in, I gave him his keys and told him that I found them, naturally.

Q You found his keys?

A Yes, sir, I did.

Q Where did you find them?

A If I may. Right in here is a parking area. They were laying right in the parking-type area. (Indicating.)

MR. GRANIER: Let the record reflect that Mr. Archer was referring to Exhibit Number 5 of 6, the diagram.

MR. POWELL: I have no further questions at this time, subject to redirect.

MR. GRANIER: That was portion 5 of Exhibit Number 6.

QUESTIONS BY MR. GRANIER  
ANSWERS BY MR ASHER

Q Mr. Asher, you heard testimony that you had two people in the truck that day from Mr. Cashman. Did you have someone else in that truck that day?

A No, sir, I did not.

Q Do you normally have someone else in that truck?

A Yes, I do.

Q And who would that be, a trackman or a foreman?

A In most occasions, it is one of two people. It could either be Mr. Tim Petty or Mr. Marty DeVito.

Q Marty DeVito, what is his position?

A B&B Foreman, Gang Number One.

Q And Mr. Petty?

A Machine Operator, Rock Island District.

Q But you didn't have anyone with you that particular day?

A No, sir. Mr. Petty was on vacation at the time, and Mr. DeVito had a shortage of people. He had two or three -- I think it was two guys that didn't show up on his gang, and he went with his crew to the Heritage Corridor, I believe. Summit, he started there, I believe.

Q And if I understood you correctly, you salted somewhere around 179<sup>th</sup> Street?

A Yes, sir.

Q And what did you do at 153<sup>rd</sup>? It had already been salted?

A It had already been done, yes, sir.

Q And then you headed towards the CCF yard, I guess it is, whatever it is called, CCF?

A Yes, facility.

Q And on your route from there, 153<sup>rd</sup> to the CCF facility, you approached the address of 11030 and 11020?

A I'm sorry?

Q You approached the address of 11020 and 11030?

A Yes, sir.

Q Mr. Cashman testified that he first saw you enter this parking lot on 11030, go around the building. No, no. I'm sorry.

Mr. Cashman testified that he first saw you leaving the address at 11030, getting onto 76<sup>th</sup> Street, turning south, going to 11020 and going back into the parking lot.

And then when he saw your truck reappear on the other side of the building on 11030, he left and went to the hardware store, I believe his testimony was.

Is that the way you remember what you did?

A Absolutely not. As a matter of fact, when I came into the parking lot, I did not come in off of 76<sup>th</sup> Street, in the first place.

I came directly off of Southwest Highway, which runs just to the west of this parking lot. And if you turn in at the bowling alley, there's a direct entrance to the back of the complex, which is where I found the keys at.

MR. GRANIER: If I may, can Mr. Asher draw Southwest Highway on this diagram that is Number 5 of 6?

MR. POWELL: Sure  
(Witness drawing.)

BY MR. GRANIER:

Q Go ahead.

A Southwest Highway runs as so. Here is the apartment complex. You had parking spaces here. You have a bowling alley. You have a road that runs directly off of Southwest Highway that leads into the back of this complex. You come in here. The keys were laying approximately right here. (Indicating.)

I picked up the keys, came out onto 76<sup>th</sup> Avenue, I believe it is. 76<sup>th</sup> Avenue runs directly back into Southwest Highway. I come off of 76<sup>th</sup> Avenue and headed north onto Southwest Highway, and that was it. I was in there approximately a minute and a half, two minutes at the most.

Q Mr. Asher, the length of the parking lot has been stated at approximately 150 yards and approximately 300 yards for the two driveways.

Are those approximate distances in your mind or would you add or subtract to that?

A I'm really not that familiar with it, sir, to make that kind of assumption because I have only been there a couple of times.

Q Is Marty DeVito a friend of yours that you would know where he lived?

A Yes, sir.

Q How far a distance is it from Southwest Highway to the parking lot through the bowling alley?

A To be honest with you, as far as numbers, I couldn't tell you, but it is approximately the same distance as this here. (Indicating.)

Q As the driveway?

A Yes, sir. It's no more than half a block.

Q And you noticed Mr. DeVito's keys somewhere between his apartment and his parking spot there, you indicated?

A Actually, they was laying in the parking lot there, in the parking area. And I knew they was his because I recognized, you know, some of the -- like the Best Lock key and so forth that Metra uses, and he has little Master Lock keys with yellow and blue tags on them for his equipment lockers in here.

Q Okay. So you came out of 11030 and took a turn in the opposite direction than what Mr. Cashman testified?

A I came out of the driveway and turned north on 76<sup>th</sup> back to Southwest Highway.

Q Mr. Cashman testified that you turned south, went back into 11020 and went around the building again. Did you do that?

A No, sir.

It is apparent that there are two different versions of what took place on January 14, 2003, at the site of the incident.

Mr. Cashman in his testimony stated that he noticed something unusual was taking place at the apartment complex in Palos Hills and took the time to report to Metra officials the activity of Metra vehicle #91061.

Additionally, Mr. Cashman took the time to appear at the investigation held on January 30, 2003, and testified as to what he had observed on January 14, 2003.

Mr. Asher in his testimony admitted that he was in the parking lot at the apartment complex where he was observed by Mr. Cashman. Mr. Asher testified that his reason for being there was that he was looking for a co-worker's keys.

The co-worker was Mr. Martin DeVito, B and B Foreman, Gang No. 1, who resides at the apartment complex at 11032 76<sup>th</sup> Avenue, Palos Hills, Illinois.

Mr. Asher testified that he exited the apartment complex on the 76<sup>th</sup> Street side and did not spread any salt.

Mr. Cashman testified that the Metra truck came out on the 76<sup>th</sup> Street side and re-entered the apartment complex and the truck was spreading salt in the driveway of the complex.

Mr. DeVito testified at the investigation that he did not request Mr. Asher to look for his keys.

In response to a question from Mr. Powell, the Hearing Officer, if there was a rear entrance to the complex by a bowling alley, Mr. DeVito stated that there was no rear entrance to the complex.

Mr. DeVito on being questioned by the Organization's Representative changed his story and stated that there was a rear entrance by the bowling alley on Southwest Highway.

In our review and reading the entire record in this dispute, we find no basis for questioning the testimony of Mr. Cashman, the witness who had nothing to gain or lose by this proceeding.

The Organization was not successful in their attempt to discredit Mr. Cashman's testimony.

Mr. Cashman, by virtue of his position and experience with the Worth Park District, had the expertise and knowledge of snowplow and salting operations.



Mr. Cashman testified with authority as to how they are operated and most certainly could tell by his observation of Metra vehicle #91061 if the salt spreader was spreading salt.

Mr. Asher in his testimony admitted that he was in the apartment parking lot complex where he was observed by Mr. Cashman; however, his testimony as to why he was there with the Metra truck, which was not part of his assignment for the day, is questionable.

The other question that disturbs us is whether there is a rear entrance by a bowling alley to the complex. Mr. Asher said yes and Mr. DeVito initially said no but changed his story on further questioning by the Organization's Representative, Mr. Granier.

In our review of the record and the investigation transcript, we find no evidence of any procedural defects or any arbitrary or unreasonable actions on the part of the Carrier.

Accordingly, based on the record, it is the decision of this Board that the Claimant was guilty as charged by the Carrier and there is no basis for our overruling the discipline of dismissal of Mr. Asher in this dispute.

SBA 1122  
Awd 28

AWARD:

Claim denied.

*Charles J. Chamberlain*

---

Charles J. Chamberlain  
Neutral Member

Date april 11, 2003



NOTICE OF INVESTIGATION

January 22, 2003

HAND DELIVERED

Mr. Michael R. Asher  
2839 Greene  
Lake Station, IN 46405

Dear Mr. Asher:

You are hereby instructed to attend a formal investigation which will be held on Friday, January 31, 2003 at 9:00 a.m. in the Office of Director of Engineering, 2067 W. 123rd Street Blue Island, IL. The purpose of this investigation is to develop the facts, determine the cause and assess responsibility, if any, in connection with your alleged unauthorized use of Metra's time and Vehicle #91061 to spread salt in a parking lot of an apartment complex at 11020 through 11032 S. 76th Avenue in Palos Hills, Illinois on Tuesday, January 14, 2003. Therefore you are hereby charged with alleged violation of Metra Employee Conduct Rule "Q", Paragraph #1 and Rule "N", Paragraph #3, Item #4. Your work record, copy of which is attached, will be reviewed at this investigation.

You may be represented at the subject investigation, as provided for in your Labor Agreement, and you will be afforded the opportunity to present evidence and testimony in your behalf and to cross-examine any witnesses testifying.

Yours truly,

A handwritten signature in dark ink, appearing to read "L. Powell". The signature is fluid and cursive, with the first letter "L" being particularly large and stylized.

L. Powell  
General B&B Supervisor

LP/MR/dm

cc: V. L. Stoner  
W. K. Tupper  
G. Washington  
J. Barton  
C. Cary  
H. J. Granier, G/C  
T. P. Petty, L/C  
M. Richardson - Please appear as Corporate Witness  
B. Blackmore - Please appear as Corporate Witness  
D. E. Six - Please appear as Corporate Witness  
D. T. Cashman - Please appear as Corporate Witness

I hereby acknowledge receipt of the original of this letter.


Signed \_\_\_\_\_ Date \_\_\_\_\_



## Memorandum

January 22, 2003

TO: M. R. Asher  
Machine Operator

FROM: M. Richardson, Director  
Rock Island Engineering 

You are hereby removed from service pending an investigation of an alleged incident involving you using Metra time and Vehicle #91061 to spread salt in a parking lot off of Metra's property on Tuesday, January 14, 2003.

MR/dm

cc: V. L. Stoner  
W. K. Tupper  
G. Washington  
J. S. Barton  
C. Cary  
H. J. Granier  
T. P. Petty



NOTICE OF INVESTIGATION  
REVISED

January 24, 2003

61 17 0 123 0

CERTIFIED MAIL 7001-2510 0009 2865 1012

--TOM 2003--

Mr. Michael R. Asher  
2839 Greene  
Lake Station, IN 46405

Dear Mr. Asher:

You are hereby instructed to attend a formal investigation which will be held on Friday, January 31, 2003 at 9:00 a.m. in the Office of Director of Engineering, 2067 W. 123rd Street Blue Island, IL. The purpose of this investigation is to develop the facts, determine the cause and assess responsibility, if any, in connection with your alleged unauthorized use of Metra's time and Vehicle #91061 to spread salt in a parking lot of an apartment complex at 11020 through 11032 S. 76th Avenue in Palos Hills, Illinois on Tuesday, January 14, 2003. Therefore you are hereby charged with alleged violation of Metra Employee Conduct Rule "Q", Paragraph #1, Rule "N", Paragraph #3, Item #4 and Metra Safety Rule 1.19. Your work record, copy of which is attached, will be reviewed at this investigation.

You may be represented at the subject investigation, as provided for in your Labor Agreement, and you will be afforded the opportunity to present evidence and testimony in your behalf and to cross-examine any witnesses testifying.

Yours truly,

L. Powell  
General B&B Supervisor

LP/MR/dm

cc: V. L. Stoner  
W. K. Tupper  
G. Washington  
J. Barton  
C. Cary  
H. J. Granier, G/C  
T. P. Petty, L/C  
M. Richardson - Please appear as Corporate Witness  
B. Blackmore - Please appear as Corporate Witness  
D. E. Six - Please appear as Corporate Witness  
D. T. Cashman - Please appear as Corporate Witness

I hereby acknowledge receipt of the original of this letter.

Signed \_\_\_\_\_ Date \_\_\_\_\_  
Metra is the registered service mark for the Northeast Illinois Regional Commuter Railroad Corporation.

NORTHEAST ILLINOIS COMMUTER RAILROAD CORPORATION  
**NOTICE OF DISCIPLINE**

SBA 1122  
Awd 28  
Page 22

Name & address of supervisor assessing discipline:

W.K. Tupper  
Chief Engineering Officer  
547 W. Jackson Boulevard  
Chicago, Illinois 60661

February 7, 2003

CERTIFIED MAIL #7001 2510 0009 2865 0893

Mr. Michael R. Asher  
2839 Greene  
Lake Station, IN 46405

The result of the investigation of January 30, 2003 has revealed your responsibility in connection with the violation of Metra Employee Conduct Rule "Q", Paragraph #1, Rule "N", Paragraph #3, Item #4 and Metra Safety Rule 1.19. Therefore you are hereby assessed the following discipline which will also be entered on your personal record:

- ( ) 1. Formal reprimand (letter of particular attached).
- ( ) 2. Three (3) days deferred suspension (with waiver one (1) day deferred) which will remain in effect for two (2) years and must be served as actual suspension if additional discipline is assessed during those years.
- ( ) 3. Five (5) work days actual suspension (with waiver three (3) days plus deferred from Step 2).
- ( ) 3. Your record indicates a deferred suspension of \_\_\_ day which was assessed on \_\_\_\_\_ and must be served in conjunction with discipline outlined above.

Suspension will begin \_\_\_\_\_ and end \_\_\_\_\_.

You must return to work on \_\_\_\_\_. Failure to return to work on that date will be treated as an unauthorized absence.

- ( ) 4. Ten (10) work days actual suspension (with waiver seven (7) days).

Suspension will begin \_\_\_\_\_ and end \_\_\_\_\_. You must return to work on \_\_\_\_\_. Failure to return to work on that date will be treated as an unauthorized absence.

- (X) 5. Dismissal. Your employment relationship with this Corporation is terminated and your record closed February 7, 2003. You must immediately return all company property to Moses Richardson, Rock Island District, 2067 W. 123rd Street, Blue Island, IL 60406.**

W.K. Tupper CED  
Signature & Title of Supervisor assessing discipline