

BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 1122

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

NMB Case No. 50

This dispute involves Mr. Curt Otero employed by Metra as a B&B Foreman.

On June 28, 2006, Mr. Otero was sent a Certified letter instructing him to attend a formal investigation to be held in the office of the Director of Engineering, Milwaukee District, 2931 W. Chicago Ave., Chicago, Illinois, on July 6, 2006, at 9:00 a.m.

The purpose of the investigation was to develop the facts, determine the cause, and assess responsibility, if any, in connection with Mr. Otero's alleged negligence to properly protect the signal cables located in proximity to the back platform header that he was installing at Northbrook on June 19, 2006, at approximately 1:30 p.m.

In connection therewith, Mr. Otero was charged with the alleged violation of Employees Conduct Rule 8 and GCOR Rule No. 1.6, No. 2 and the last paragraph.

The investigation was postponed until July 13, 2006, and was held on that date.

Following the investigation, Mr. Otero received a Notice of Discipline letter dated August 2, 2006, assessing him discipline of Three (3) work days deferred suspension plus the one day deferred suspension he received on May 9, 2005, for violation of Employee Conduct Rule 8 and GCOR Rule No. 1.6, No. 2 and the last paragraph.

The transcript of the investigation held on July 13, 2006, 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:

At the investigation held on July 13, 2006, Mr. Lawrence Powell, General B&B Supervisor, was the Hearing Officer.

The following individuals appeared and testified at the investigation:

Mr. William Dehn, B&B Mechanic
Mr. Nathan Fulbright, B&B Mechanic
Mr. Roberto Ocherio
Mr. Curt Otero, B&B Foreman
Mr. Lawrence Powell, Hearing Officer
Mr. Allan F. Scott, Union Representative
Mr. James Walsh, Test Man
Mr. Robert Williams, B&B Supervisor

Mr. Allan F. Scott, Local Chairman BMW Teamsters, appeared as Employee Representative for Mr. Curt Otero, the Claimant, in this dispute.

We have reviewed the testimony of all who testified at the investigation; and, for the most part, there is consistency in the testimony as to what took place at the construction project at the Northbrook Station on June 19, 2006.

Mr. Curt Otero, the B&B Foreman, and his crew were engaged in installing platform headers at the Station. In the process, signal cables which were laying underground in close proximity to the area of the construction were struck and damaged which caused train delays until they were repaired by signal forces on that day.

The transcript testimony reveals that Mr. Otero's crew was alerted to the fact that signal cables were in close proximity to the location, and there is evidence that they were proceeding with caution in installing the platform headers; however, the fact remains that the cables were struck and damaged.

Mr. Otero was the Foreman of the B&B construction crew and, accordingly, must bear responsibility for what transpired in this incident which occurred on June 19, 2006.

We find no validity in the procedure objections raised by Mr. Scott at the investigation.

Accordingly, it is our decision that the discipline assessed Mr. Otero in this dispute of Three (3) work days deferred suspension plus the one day deferred

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suspension he received on May 9, 2005, is reasonable, and there is no basis for our
overruling the Carrier's action in this dispute.

AWARD:

Claim denied.

Charles J. Chamberlain

Charles J. Chamberlain
Neutral Member

Date September 12, 2006