

SPECIAL BOARD OF ADJUSTMENT NO. 924

Award No. 127
Docket No. 145
CNW File: 81-87-222

PARTIES: Brotherhood of Maintenance of Way Employees

TO :

DISPUTE: Chicago and North Western Transportation Company

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood that:

- (1) The dismissal of Assistant Foreman Ruben Morales for alleged [un]authorized absence on Friday, September 4 and Tuesday, September 8, 1987 was without just and sufficient cause (Organization File 3KB-4338 D; Carrier File 81-87-222).
- (2) Claimant Ruben Morales shall now be reinstated with seniority and all other rights unimpaired and compensated for all wage and any other loss suffered because of his improper dismissal."

FINDINGS:

This Board, upon the whole record and all the evidence, finds and holds that the employees and the Carrier involved are respectively employees and Carrier within the meaning of the Railway Labor Act as amended and that the Board has jurisdiction over the dispute herein.

Claimant was assigned to work on September 4 and 8, 1987, as assistant foreman at Elk Grove, Illinois, but did not report for work on those days, nor did he call in about his absence. Claimant subsequently was directed to attend a formal investigation of the charge:

Responsibility for being absent without authority on Friday, September 4th and Tuesday, September 8, 1987.

The investigation was held as scheduled, and a copy of the transcript has been made a part of the record. We find that the investigation was conducted in a fair and impartial manner.

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 absent without authority on the days

in question.

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 it to have been unreasonable, arbitrary, or capricious. The Claimant's record shows that he has been disciplined with four actual suspensions and two deferred suspensions related to his absences from service between August 1, 1979, and July 30, 1986. In July 1986, he was given a formal letter of warning, placing him on the discipline system. He subsequently received a five-day suspension and a ten-day suspension under the discipline system, and this is the third offense after the letter of warning.

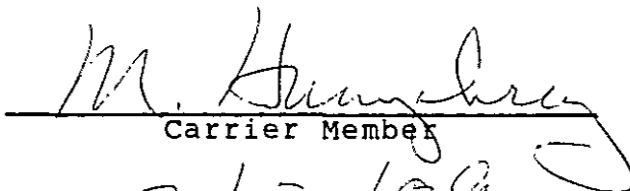
Given that the Carrier followed its attendance program, this Board cannot find that the Carrier acted arbitrarily or capriciously when it dismissed the Claimant. Therefore, the claim must be denied.

Award:

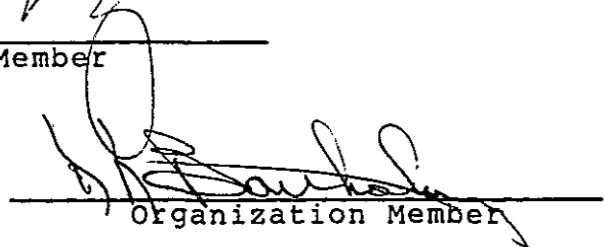
Claim denied.



Neutral Member



Carrier Member



Organization Member

Date: 2/3/89