

BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 924
BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
and
CHICAGO & NORTH WESTERN TRANSPORTATION COMPANY

Case No. 164

Award No. 155

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

1. The dismissal of Track Supervisor G. D. Wilslef for alleged unauthorized absence on April 19, 20, and 21, 1989, was without just and sufficient cause, capricious and in violation of the Agreement (Organization File 6LF-2310D; Carrier File 81-89-100).

2. Claimant G. D. Wilslef shall now be allowed the remedy prescribed in Rule 19(d).

FINDINGS:

Claimant was employed as a track supervisor on the dates in question. The Claimant notified the dispatcher on April 19, 1989, at 5:58 a.m. that he would not be in to work that day or the next two days because he had transmission problems with his car. As a result of his failure to show up for work, the Claimant was charged with absenting himself from duty without proper authority on those three days; and, after a hearing, the Claimant was dismissed from the Carrier's service.

The parties being unable to resolve the issues, 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 absent on the days in question. This Board finds that the Claimant did not make a

sufficient attempt to contact supervision in an effort to let them know that he would not be coming in to work. Therefore, we find that the Claimant was properly found guilty of the rule violation.

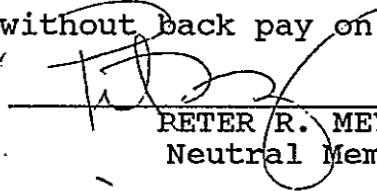
Once this Board has determined that there is sufficient evidence in the record to support the guilty finding, we next turn our attention to the type of discipline imposed. This Board will not set aside a Carrier's imposition of discipline unless we find its action to have been unreasonable, arbitrary, or capricious.

In the case at hand, the Claimant had been working for the Carrier for approximately fourteen years. This Board must find that dismissing an employee with that lengthy seniority for the incident involved in this case would be unreasonable. This Board recognizes that the Claimant had previously received a five- and ten-day suspension; and, therefore, under the Carrier's policy, the next disciplinary action is dismissal. However, this Board cannot find that the action taken by the Carrier was appropriate, and we hereby reduce the dismissal to a lengthy suspension. The Claimant shall be returned to work on or before January 20, 1991, but without back pay.

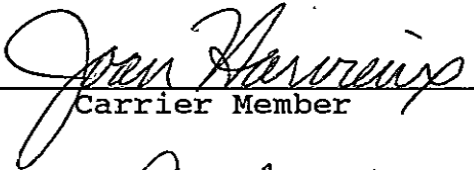
AWARD:

Claim sustained in part. The dismissal of the Claimant shall be reduced to a lengthy suspension, and he shall be

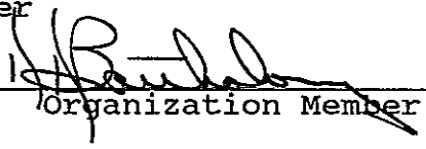
returned to work without back pay on or before January 20, 1991.



PETER R. MEYERS
Neutral Member



Carrier Member



Organization Member

Dated: April 24, 1992