

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

Case No. 197

Award No. 170

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

1. The discipline of a five (5) day suspension and disqualification as a foreman assessed Foreman M. K. Whitaker for an alleged falsification of a work report was without just and sufficient cause, based on an unproven charge and discriminatory (Organization File 9KB-4804D; Carrier File 81-91-167).

2. Foreman M. K. Whitaker shall be compensated for all time lost, have his foreman's rights restored and have the discipline removed from his record.

FINDINGS:

Claimant, a foreman assigned to the section gang at Proviso, Illinois, was disqualified as a foreman and assessed a five-day suspension after he was found guilty of allegedly submitting a false work report on June 13, 1991, while he and his crew were installing crossties. Claimant and his crew were allegedly observed by the Manager of Maintenance Operations heading for lunch at 11:35 a.m. and returning to their work stations at 12:30 p. m. The Claimant, however, in his daily work report stated that he and his crew took a 30 minute lunch from 12 noon to 12:30 p. m. Subsequently, the Carrier held an investigation and assessed the discipline hereto set forth.

The Organization filed a claim on behalf of the Claimant and the parties being unable to resolve the issue, 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 guilty of falsifying his work report when he claimed time for himself and his crew when they were not working. The record reveals that the Claimant took approximately one hour for lunch and yet he reported much less than that.

Once this Board has determined that there is sufficient evidence in the record to support the guilty findings, 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.

The Claimant in this case was found guilty of a very serious offense for which he received a five-day suspension and disqualification as a foreman. Given the nature of the offense which can be considered theft from the Carrier and the previous background of the Claimant, this Board cannot find that the discipline assessed was unreasonable, arbitrary or capricious. Therefore, the claim will be denied.

AWARD

Claim denied.

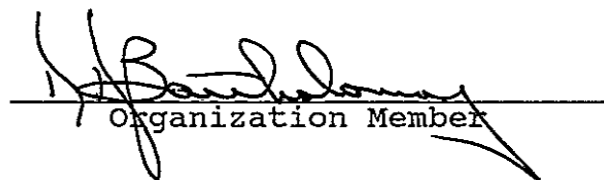


PETER R. MEYERS
Neutral Member



Joan M. Lawrence
Carrier Member

Dated: June 23, 1993



H. B. Bantelony
Organization Member