

BEFORE SPECIAL BOARD OF ADJUSTMENT 924

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
and
CHICAGO & NORTH WESTERN TRANSPORTATION CO.

Case No. 219

AWARD 195

STATEMENT OF CLAIM: Claim of the Brotherhood that:

1. The dismissal of Machine Operator R. L. Brandt for his alleged failure to report a personal injury and alleged falsification of his work report for September 4, 1992, was without just and sufficient cause, based on unproven charges and capricious (Organization File 3KB-4965D; Carrier File 81-93-43).
2. Machine Operator R. L. Brandt shall now be reinstated with seniority and all other rights unimpaired, compensated for all wage loss suffered and have the discipline removed from his personal file.

FINDINGS:

Claimant Brandt was charged with failing to report an on-duty injury when on September 4, 1992, Claimant slipped and bruised his upper right arm while dismounting his machine. Claimant contends that he initially did not believe that he was injured but that later, on his way home, he stopped at the emergency room at the hospital near his home and had his arm examined. Since the examining doctor diagnosed the injury as only being a bruise, Claimant did not report the injury to the Carrier.

In addition to the charge of failing to report an injury, the Claimant was charged with falsifying his work report on the same date in question when the Claimant allegedly

did not work the ten hours that he claimed he had worked. The Carrier contends that the bill it received from the hospital indicates that the Claimant had stopped in for treatment at approximately 1617 hours. Claimant's work hours that day were from 0600 to 1600. The hospital is located approximately 100 miles from the Claimant's work site. Therefore, the Carrier contends that the Claimant had to leave his post earlier than 1600 hours that day.

The Claimant contends that since he had worked extra hours earlier that week, he could use those overtime hours in exchange for his early quitting time on September 4, 1992, and so "he indicated on his work report that he had worked a full ten hours that day".

Based on the evidence adduced at the hearing, the Claimant was found to have been responsible for serious wrongdoing and he was dismissed from service. The Organization took exception to the dismissal of the Claimant and filed the instant claim.

The parties being unable to resolve the issue, this matter now comes 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 violated Carrier Rules by failing to report an injury to his supervisors and by falsifying his work report relating to the amount of time that he worked on September 4, 1992.

Carrier Rule E states that any accidents that occur on duty "....must be reported by the first means of communication". General Rule P also states:

All accidents, personal injuries and any violation of the Rules must be promptly reported to the proper officer by the first means of communication.

The evidence is clear that the Claimant did not report his injury at the first means of communication. He admittedly left work that day in order to seek emergency treatment at the hospital. He admits that he was aware of the Rules requiring him to immediately report the injury. On the date in question, the Claimant left work, apparently early, and went to the hospital to treat the injury that had occurred on the job. Obviously, he was in violation of the Rule that requires the prompt reporting of an injury on duty.

With respect to the falsification issue, the record is clear that the Claimant indicated on his daily work report that he had worked from 0600 to 1600 hours on September 4, 1992. The hospital records show that he was admitted to the hospital at 1617 hours. The distance between the workplace and the hospital in Pekin, Illinois is approximately 100 miles. Claimant admitted in the testimony that he did not leave at the time he stated he did on his daily report. Moreover, Claimant admitted that he did not notify the Carrier of the injury on the job in a timely fashion.

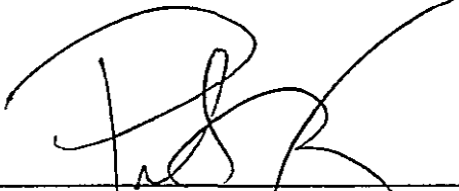
Once this Board has determined that there is sufficient evidence in the record to support the guilty finding, we next must turn our attention to the type of discipline imposed. This Board will not set aside a Carrier's imposition of discipline unless we find its action to have been unreasonable, arbitrary,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

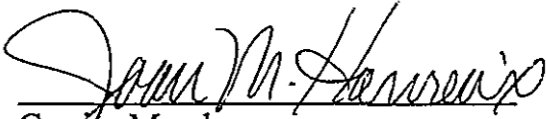
The Organization argues that the Claimant has been employed by the Carrier for

12 years and that discharge is much too severe a penalty. However, this Board must disagree. The Claimant in this case violated two Rules involving honesty. Both Rules, the prompt reporting of an injury on duty, and falsification of his work reports, are the type of violations which on numerous occasions have led to dismissals which have been upheld by this Board and other Boards. The Carrier must be assured that its employees will deal honestly with it in all aspects of their employment. In this case, the Claimant falsified his work records and he did not promptly report an injury. The Carrier did not act unreasonably, arbitrarily, or capriciously when it terminated his employment for those violations.

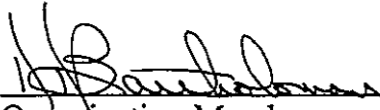
AWARD

Claim denied.


 PETER R. MEYERS
 Neutral Member


 Carrier Member

DATED: June 3, 1994


 Organization Member

DATED: June 3, 1994