

BEFORE SPECIAL BOARD OF ADJUSTMENT 924

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

AWARD No. 200

Case No. 222

STATEMENT OF CLAIM: Claim of the Brotherhood that:

1. The five (5) day suspension assessed Section Foreman D. T. Kruser for his alleged failure to properly clear a train through a Form B order on June 5, 1992 was without just and sufficient cause, capricious, unsupported and in violation of the Agreement (Organization File -8KB-4916D; Carrier File 81-92-113).
2. Section Foreman D. T. Kruser shall now be compensated for all wage loss suffered and have the discipline removed from his personal file.

FINDINGS:

On June 5, 1992, Claimant Kruser was employed as a section foreman of a tie gang working in Barrington, Illinois. His responsibility on that date was "to put up Form B boards and clear trains through the area where the tie gang was working". While passing out the current line-ups, the Claimant was informed he had a call on his radio and he went to his truck to answer the call. Meanwhile, Suburban Commuter Train 636 went through the Form B limit at 10 mph because it had not been cleared by the Claimant to proceed at its regular speed. This led to a delay in arrival time at the Chicago Terminal. As a result, the Claimant was notified to attend a formal hearing to determine his responsibility in failing to properly clear a commuter train through Form B, thereby

causing its delayed arrival time.

The Claimant was found guilty and assessed a five-day suspension. The Organization took exception to the discipline imposed and filed a claim on behalf of the Claimant.

The parties being unable to resolve the issue, this matter now comes before this Board.

This Board has reviewed the procedural arguments raised by the Organization and we find them to be without merit.

With respect to the substantive question, 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 guilty of failing to clear Train 636 through the form B area under his supervision, thereby causing the train to be delayed. Claimant failed to communicate with the trains that entered into his area as he was required to do.

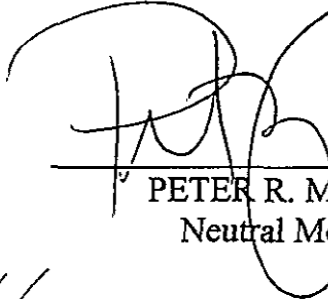
Once this Board has determined that there is sufficient evidence in the record to support the guilty finding, we next turn our attention to the type of discipline imposed. This Board will not set aside a Carrier's imposition of discipline unless we find its actions to have been unreasonable, arbitrary,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

The Claimant's personal record reveals no previous discipline. Therefore, the Carrier issued its *minimal five-day suspension to the Claimant as the first step in placing him on the new discipline system.* Given the nature of the wrongdoing in this case, this

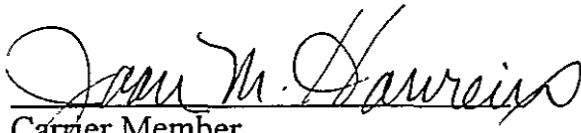
Board cannot find that the action taken by the Carrier was unreasonable, arbitrary, or capricious. Therefore, the claim must be denied.

AWARD

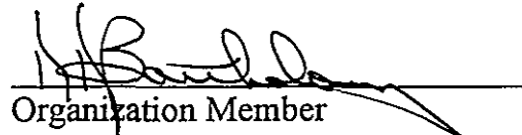
Claim denied.



PETER R. MEYERS
Neutral Member



Carrier Member
DATED: 8/4/94



Organization Member
DATED: 8-3-94