SPECIAL BOARD OF ADJUSTMENT NO. 924

Award No. 23
Docket No. 27

PARTIES: Brotherhood of Maintenance of Way Employes
TO :
DISPUTE: Chicago and North Western Transportation Company

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

(1) The ten (10) day suspension and loss of foreman and assistant foreman seniority rights assessed J. S. Meggison for allegedly being absent without proper authority for one (1) day was without just and sufficient cause. (Organization File 7D-3192; Carrier File D-11-19-84).

(2) Foreman J. S. Meggison shall now be allowed the remedy prescribed in Rule 19(d).

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

The claimant herein is the same as involved in Docket No. 26, Award No. 22. He was employed as a track foreman on Carrier's Twin Cities Division, headquartered at Itasca, Wisconsin, with assigned hours 7:30 A.M. to 4:00 P.M., Monday through Friday. On July 20, 1982, claimant was notified to attend formal investigation scheduled for 2:00 P.M., July 28, 1982, on the charge:

> "Your responsibility for absenting yourself from duty without proper authority on July 13, 1982 while assigned as Track Foreman at Itasca, Wisconsin."

The investigation was rescheduled for August 12, 1982, a transcript of which has been made a part of the record, following which claimant was assessed a ten-day suspension and disqualified as a Foreman and an Assistant Foreman.

There is no dispute that claimant did not protect his assignment on July 13, 1982. In the hearing, or investigation, it was developed that claimant called another foreman about 4:00 A.M., on the date involved and stated that he could not be at work that day because of trouble he was having with his automobile; the foreman to whom he talked told him (claimant) that he should contact one of his supervisors to obtain proper authority. Claimant

then contacted the third shift yardmaster and requested that a message be relayed to his supervisor in the morning. Rule 14 of Carrier's General Regulations and Safety Rules provides:

> "Employees must report for duty at the designated time and place. They must be alert, attentive and devote themselves exclusively to the Company's service while on duty. They must not absent themselves from duty, exchange duties with or substitute others in their place, without proper authority."

The claimant no doubt knew, or should have known, that "proper authority" referred to in Rule 14, was the Roadmaster or Assistant Roadmaster.

It was also developed that claimant instructed the employe who prepared the work report for July 13, 1982, to show him (claimant) as on vacation on the day involved. It was established, however, that a vacation day was not authorized by anyone in authority, which is the general practice when vacations are arranged. There was also evidence that July 13, 1982, was the first full day of absence by claimant for a period of about ten months.

Discipline against claimant for his actions on July 13, 1982, was warranted; however, his permanent disqualification as a foreman and assistant foreman, was excessive. We will award that his seniority in those classifications be restored within thirty days from the date of this award, but we will deny all monetary features of the claim. The claimant should understant, however, that the Board considers the manner in which he handled the vacation matter as a serious offense, and that further such infractions on his part will receive short shrift by all concerned.

A W A R D

Claim sustained to the extent indicated in Findings.

ORDER

The Carrier is directedto comply with this Award within thirty days hereof.

Paul C. Carter
Chairman, Neutral Member

L D Crawford
Carrier Member

H G Harper
Labor Member

Date 5/8/84.