

SPECIAL BOARD OF ADJUSTMENT NO. 924

Award No. 29
Docket No. 34

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 thirty (30) day suspension assessed B&B Carpenter Maurice Shaw for alleged unauthorized absence on August 8, 11, 12, 22 and 25, 1983 was without just and sufficient cause. (Organization File 9D-3984; Carrier File 81-84-13-D).
- (2) B&B Carpenter Maurice Shaw shall 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 employees and the Carrier involved, are respectively employees and Carrier within the meaning of the Railway Labor Act as amended, and that the Board has jurisdiction over the dispute herein.

Claimant was employed by the Carrier as a B&B Carpenter, on Carrier's Suburban Division, with assigned hours 7:30 a.m. to 4:00 p.m., Thursday through Monday. On August 8, 11, 12, 22 and 25, 1983, he failed to protect his assignment. On August 12, 1983, claimant was notified to report for formal investigations:

"To determine your responsibility in connection with your absence from your assignment on August 8, 11 and 12, 1983."

"To determine your responsibility in connection with your absence on August 22, 1983."

"To determine your responsibility in connection with your absence from your assignment on August 25, 1983."

By agreement, one hearing was conducted covering the three charges. A transcript of the hearing, conducted on September 20, 1983, has been made a part of the record.

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."

Following the hearing, or investigation, conducted on September 20, 1983, claimant was assessed discipline of thirty days actual suspension.

We have carefully reviewed the transcript of the combined hearing and find substantial evidence to support a finding that claimant was in violation of Rule 14 of Carrier's General Regulations and Safety Rules. Claimant contended that his absences were due to illness; however, there is no evidence that claimant was incapacitated to the extent that he could not contact his Supervisor on the dates involved. While there were some conflicts between the testimony of claimant and his Supervisor, it is well settled that a Board of this nature does not weigh evidence, attempt to resolve conflicts therein, or pass upon the credibility of witnesses. Such functions are reserved to the Carrier. The Board is not justified in reversing the Carrier's action simply because of conflicts in testimony. We also note that claimant's prior absentee record was far from satisfactory.

The record does not justify a finding that Carrier's action in imposing the discipline that it did was arbitrary, capricious or in bad faith. The claim will be denied.

A W A R D

Claim denied.


Chairman, Neutral Member


Carrier Member


Labor Member

Dated: April 16, 1985.