

SPECIAL BOARD OF ADJUSTMENT NO. 924

Award No. 77
Docket No. 105

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

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

- (1) The dismissal of trackman Victor Roberts for allegedly falsifying a claim for bereavement leave in August of 1980 was without just and sufficient cause, on the basis of an unproven charge, and arbitrary. [Organization File 9KB-4058T; Carrier File 81-85-200 D]
- (2) Trackman Victor Roberts 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.

On May 10, 1985, Claimant was directed to appear at a formal investigation of the charge:

To determine your responsibility, if any, in connection for a false claim of bereavement leave on August 27, 30, and 31, 1980 which was brought to the attention to the A.D.M.E.'s office on May 7, 1985.

The investigation was held as scheduled, and a copy of the transcript has been made a part of the record. We find that the investigation was conducted in a fair and impartial manner.

This Board has reviewed all of the evidence and testimony in this case, and we find that there is sufficient evidence in the record to support the Carrier's finding that the Claimant was guilty of filing a false claim for bereavement leave

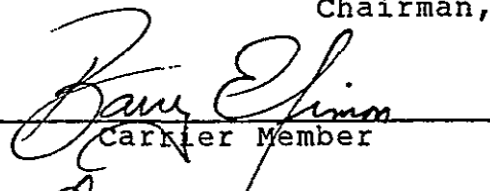
for the death of his mother in 1980 when she had in fact died in 1976. The record is absolutely clear that the Claimant's mother died in November 1976, and that the Claimant, who began his employment with the Carrier in August 1980, collected his bereavement pay in 1980. Although this violation was not discovered until 1985, it is still clear that the Claimant obtained monetary benefits from the Carrier under false pretenses, and therefore the Claimant subjected himself to discipline.

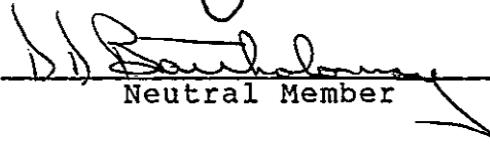
Once this Board determines that a Claimant has been properly found guilty, we next turn our attention to the type of discipline imposed by the Carrier. It is fundamental that theft is a dismissible violation even on the first offense. The action taken by the Claimant amounts to theft. Hence, we find that the Carrier did not act unreasonably, arbitrarily, or capriciously when it discharged the Claimant for his dishonest activity.

AWARD:

Claim denied.


Chairman, Neutral Member


Carrier Member


Neutral Member

Date: October 9, 1986