

SPECIAL BOARD OF ADJUSTMENT NO. 924

Award No. 79  
Docket No. 86

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 thirty (30) day suspension assessed Machine Operator R.E. Rhodes was without just and sufficient cause. [Organization File 3D-4686; Carrier File 81-85-22-D]
- (2) Machine Operator R.E. Rhodes shall be allowed the remedy as 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 July 3, 1984, Claimant was observed, during his shift, lying down on a desktop, without his safety glasses and wearing his hard hat backwards. On July 5, 1985, Claimant was directed to attend a formal investigation of the charge:

To determine your responsibility for your failure to perform any service to the Transportation Company on July 3, 1984 at 3:43 P.M. and your failure to wear proper safety equipment on July 3, 1984.

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 several rule violations. The Claimant admitted that he failed to wear the

required safety glasses on the date in question. He also admitted that he was lying down in the tool house during working hours. There is no corroborative evidence that the Claimant was suffering from any illness since he did not mention illness to any of his supervisors who were on duty that day. Hence, the Carrier was within its rights to issue discipline to the Claimant for his actions.

The Organization argues that the discipline was inappropriate because the Claimant was in an area where safety glasses were not needed. We disagree. The Organization also argues that the discipline was excessive since it amounted to a 150-day suspension because the 30-day suspension activated two previous 60-day deferred suspensions. However, this Board can only review whether the 30-day suspension was appropriate for the Claimant's rule violations on the date in question. We have no jurisdiction over the previous disciplines and really cannot consider them when reviewing this incident and the discipline imposed for it. Thirty days off for the Claimant's behavior on the date in question was not an unreasonable, arbitrary, or capricious discipline under the circumstances. Therefore, we will not set it aside.

AWARD:

Claim denied.

  
Chairman, Neutral Member

  
Carrier Member

  
Employee Member

Date: February 25, 1987