

SPECIAL BOARD OF ADJUSTMENT NO. 924

Award No. 80
Docket No. 87

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 and excessive.
[Organization file 3D-4719; Carrier File 81-85-23-D]
- (2) Claimant 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 employee and the Carrier involved are respectively employee and Carrier within the meaning of the Railway Labor Act as amended and that the Board has jurisdiction over the dispute herein.

On July 10, 1984, while he was nipping a tie with a bar, Claimant was observed straddling the bar and also sitting on top of the bar. Claimant subsequently was directed to appear at a formal investigation of the charge:

To determine your responsibility for rules violations committed by you while performing your duties at Barr, Illinois at approximately 3:19 P.M. July 10, 1984.

The investigation was held as rescheduled after a postponement, 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.

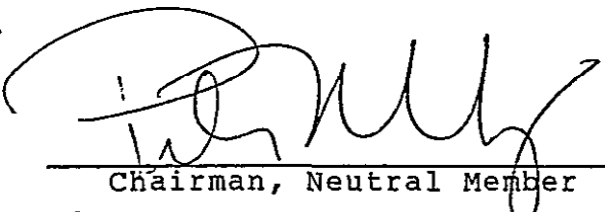
This Board has reviewed the evidence and testimony in this case, and we find that there is sufficient evidence in the record to support the Carrier's finding that the Claimant was guilty of a safety rule violation. In addition to the witnesses that the Carrier presented at the hearing, the Claimant also admitted that he did not comply with


the Carrier's rules. Hence, the Carrier had sufficient basis to impose discipline against the Claimant.

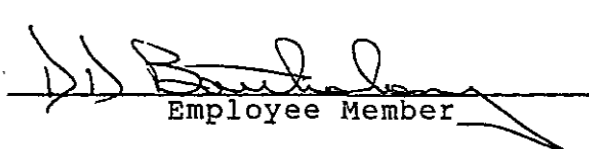
Although the Organization argues that the 30-day suspension was excessive, the record demonstrates that this Claimant has had numerous personal injuries, as well as disciplines for violation of various safety rules. He has received three deferred suspensions and one previous actual suspension. Based on the record of this Claimant and the nature of the infraction of which the Claimant was found guilty, we do not find that the Carrier's action in assessing the Claimant a 30-day actual suspension was unreasonable, arbitrary, or capricious. Therefore, we will not set it aside.

Award:

Claim denied.


Chairman, Neutral Member


Carrier Member


Employee Member

Date: February 25, 1987