

SPECIAL BOARD OF ADJUSTMENT NO. 936

Parties
to the
Dispute

:
: Brotherhood of Maintenance of Way Employes :
: :
: vs. :
: :
: Norfolk and Western Railway Company :
: (Lake Region) :
:

Case No. 6
Award No. 6

STATEMENT OF CLAIM

(1) The dismissal of Section Laborer C. S. Neeley for allegedly sleeping on duty was without just and sufficient cause, on the basis of an unproven charge and in violation of the Agreement. [File No. MW-MUN-78-56].

(2) Section Laborer C. S. Neeley shall be reinstated with seniority and all other rights unimpaired and compensated for all wage loss suffered.

OPINION OF THE BOARD

Claimant C. S. Neeley was employed as a Section Laborer on Section 5 in Marion, Indiana. Carrier alleges that Claimant was observed sleeping in his car while performing Crossing Watchman duties. He was observed in this condition by Roadmaster Wilko. A hearing into the matter was held on December 6, 1978. Claimant was found guilty as charged and was dismissed from service.

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A review of the record of this case reveals that Claimant was granted all substantive and procedural rights granted by Agreement and that he was in fact sleeping on the job. It also reveals that Claimant has a poor disciplinary record and has received a number of suspensions in the past. One suspension in November 1973 was for 50 days for sleeping on the job. He was fully aware of his responsibility to stay alert on the job. He failed to do so at his own peril.

AWARD

The claim is denied.


R. E. Dennis, Neutral Member


S. C. Lyons, Carrier Member


H. G. Harper, Employee Member

MAY 10 1984