

SPECIAL BOARD OF ADJUSTMENT NO. 957

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SOUTHEASTERN PENNSYLVANIA  
TRANSPORTATION AUTHORITY  
"AUTHORITY"

vs.

BROTHERHOOD OF MAINTENANCE OF  
WAY EMPLOYES  
"ORGANIZATION"

AWARD NO. 25

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STATEMENT OF CLAIM:

Claim of the Brotherhood (BMWE-88-17-F12) that:

The discipline assessed Second Class Maintainer M. Pringle is without just and sufficient cause in an arbitrary and capricious manner.

REMEDY:

Claimant, M. Pringle, shall be compensated for all lost wages, including overtime, on account of this discipline, and his record shall be expunged of any reference to said discipline.

OPINION OF THE BOARD

Claimant, M. Pringle, was ultimately issued a three day suspension by the Authority for allegedly violating Work Rule No. 41 (Refusal/Failure to Follow a Directive).

The basic facts are as follows. Claimant is a rail maintainer-second class. On December 29, 1987, he was directed by Superintendent of Track, E. Matthews, to complete his overtime work by "about" 8:00 P.M. At 5:15 P.M., Claimant was sent to Paoli, Pennsylvania, to relight pots which had been blown out by the weather conditions. A winter storm had at that

time hit the area. At about 6:32 P.M., Foreman Pyfer advised the Claimant that he was to go to Powelton Avenue Yard and check yard switches. At 6:45 P.M., the Claimant advised that all pots had been relighted at Paoli and then left Paoli at 7:10 P.M. Rather than proceeding to Powelton Avenue Yard as directed by Foreman Pyfer, however, Claimant reported back to the Broad and Lehigh Avenue headquarters of the Authority. Claimant did not find Foreman Pyfer at the headquarters, and therefore left the facility and went home. Upon discovering that Claimant had not gone to Powelton Avenue Yard to check the yard switches, the Authority called out another employee to perform the task. Superintendent Matthews subsequently issued Claimant a five day suspension for allegedly failing to perform the assignment at the Powelton Yard. A grievance was filed on behalf of the Claimant. The Authority subsequently reduced his suspension from five to three days. The Organization continued to maintain that no discipline was appropriate, and therefore placed the grievance before this Board.

The Authority maintains that a three day suspension was appropriate, as the Claimant failed to perform the assignment given him by Foreman Pyfer at Powelton Avenue Yard, and in light of his poor prior work record. According to the Authority, Pyfer's instructions superceded any direction by Matthews concerning completing overtime by 8:00 P.M., as a snow emergency existed and the Claimant was on emergency overtime. The Authority further contends that the evidence is clear that the

Claimant did not truly attempt to contact Foreman Pyfer before leaving work that evening, as he could have done so by radio if he desired.

The Organization asserts that the Claimant alone is not guilty in this case, as the entire matter must be viewed as poor communication between Foreman Pyfer and Superintendent Matthews. According to the Organization, the Claimant was put in the middle between these two superiors, as Matthews told him to cease working by 8:00 P.M. and Pyfer gave him an assignment which would have required him to continue working past 8:00 P.M. Moreover, according to the Organization, the time logs concerning calls made in this matter appear inaccurate, and in any event it is clear that the Claimant made a good faith but unsuccessful effort to contact the foreman at the Broad and Lehigh facility before going home.

The Board has determined that the claim must be denied.


The Board finds that under the circumstances the Claimant was not privileged to fail to perform the Powelton assignment given by Foreman Pyfer. When given this assignment, the Claimant did not inform Pyfer that he could not perform it. In light of the snow conditions then existing, and the fact that Pyfer's direction was subsequent to Matthews instructions to the Claimant to complete his overtime work by approximately 8:00 P.M., Claimant or any reasonable employee should have understood that he was not privileged to fail to perform the Powelton assignment. Moreover, the Board is not persuaded that the Claimant made a

true good faith effort to contact his superiors in this matter and avoid any confusion that may have existed concerning whether he should perform the Powelton assignment. The Authority has established that the Claimant could have contacted the office by radio if not in person, and that the radio desk was being manned on the night in question.

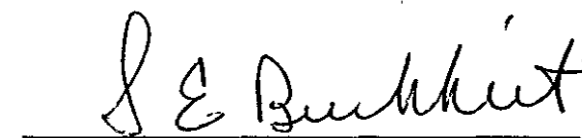
In these circumstances, a three day suspension was justified. The Authority committed no procedural errors warranting a sustaining of the claim. While the Organization has been successful in having the Claimant's discipline reduced from a five day to a three day suspension, the Claimant's own actions and previous work record, which contains a number of previous disciplinary actions, precludes a further lessening of the penalty.

AWARD

Claim denied.

  
R. B. BIRNBRAUER  
Authority Member

  
W. E. LA RUE  
Organization Member

  
SCOTT E. BUCHHEIT  
Neutral Member