

SPECIAL BOARD OF ADJUSTMENT NO. 986

CASE NO. 119

DOCKET NO. NEC-BMWE-SD-2368D

PARTIES: BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
TO :

DISPUTE: NATIONAL RAILROAD PASSENGER CORPORATION (AMTRAK)

DISPUTE: Claim of the System Committee of the Brotherhood:

1. That the formal reprimand of Claimant W. H. Larry for alleged violation of N.R.P.C. (Amtrak) Rules of Conduct Rule L on September 15, 1988, was unwarranted.
2. The Carrier has completely evaded the safety issue.
3. The Claimant should be immediately exonerated and the matter should be expunged from his record.

FINDINGS:

Claimant W. H. Larry was employed by the Carrier as a trackman at Lorton, Virginia.

On September 23, 1988, the Carrier notified the Claimant of the following charge:

Violation of N.R.P.C. (Amtrak) Rules of Conduct Rule L which states, in part . . . "Obeying Instructions - Employees must obey instructions, directions, and orders from Amtrak supervisory personnel . . . except when confronted by a clear and immediate danger to themselves, property, or the public.

When, at approximately 12:30 p.m., Thursday, September 15, 1988, it is alleged by track foreman G. T. Johnson that you failed to comply with his instructions to move cross ties while working at the Amtrak Auto Train facility at Lorton, Virginia.

After several postponements, the disciplinary investigation took place on December 8, 1988. On December 13, 1988, the Carrier notified the claimant that he was found guilty of the charge and was assessed the discipline of a formal reprimand. On December 22, 1988, the Claimant filed an appeal of his discipline, which appeal was denied by the

Carrier on January 25, 1989. Thereafter, the Organization filed a claim on Claimant's behalf, challenging his discipline.

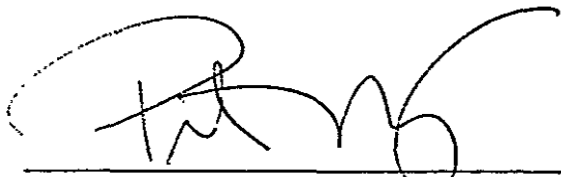
This Board has reviewed the evidence and testimony in this case and we find that there is sufficient evidence in the record to support the Carrier's finding that the Claimant was guilty of violating Rule L when he failed to obey instructions from his supervisor.

Once this Board has determined that there is sufficient evidence in the record to support the guilty finding, we next turn our attention to the type of discipline imposed. This Board will not set aside a Carrier's imposition of discipline unless we find its action to have been unreasonable, arbitrary, or capricious.

This Board has held in the past that insubordinate actions on the part of employees can lead to discharge. The Claimant in this case only received a formal reprimand. Since he clearly did not obey his supervisor, this Board cannot find that the action taken by the Carrier was unreasonable. Therefore, the claim will be denied.

Award

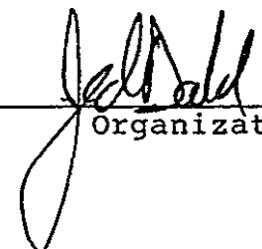
Claim denied.



Peter R. Meyers
Neutral Member



Patricia A. Engle
Carrier Member



Organization Member

16-1-90