

SPECIAL BOARD OF ADJUSTMENT NO. 986

CASE NO. 122
DOCKET NO. NEC-BMWE-SD-2448D

PARTIES: BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
TO :

DISPUTE: NATIONAL RAILROAD PASSENGER CORPORATION (AMTRAK)

DISPUTE: Claim of the System Committee of the Brotherhood:

1. The ten-calendar day suspension of Claimant Errol Gardner for alleged violation of N.R.P.C. (Amtrak) Rules of Conduct Rule C on January 10, 1989, was unwarranted.
2. The Carrier failed in its burden of proof to show the Claimant violated the rule charged; the Carrier's case is fatally flawed, with numerous agreement violations.
3. The Claimant should be exonerated of the charge, compensated for all compensation loss due to the discipline, and the discipline removed from the Claimant's record.

FINDINGS:

Claimant Errol Gardner was employed by the Carrier as a trackman at Philadelphia, Pennsylvania.

On January 26, 1989, the Claimant was notified by the Carrier of the following charge:

Violation of N.R.P.C. (Amtrak) Rules of Conduct Rule C

Specification No. 1: Wherein, you allegedly sustained a personal injury to yourself on Tuesday, January 10, 1989, while attending to your personal hygiene in Amtrak Company living quarters, on Amtrak Company property (QX Yard - Philadelphia, PA) and failed to report said injury to your supervisor until Tuesday, January 17, 1989.

After one postponement, the disciplinary investigation was held on February 28, 1989. On March 15, 1989, the Carrier notified the Claimant that he was found guilty of the charge brought against him and was assessed discipline of a ten-calendar day suspension. On March 17, 1989, the Claimant filed an appeal of his suspension, which appeal was denied by the Carrier on April 28, 1989. The Organization

thereafter filed a claim on Claimant's behalf, challenging his suspension.

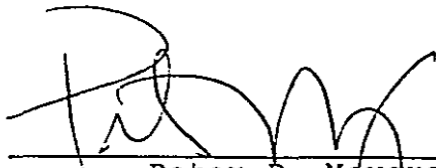
This Board has reviewed the evidence and testimony in this case and we find that there is sufficient evidence in the record to support the finding that the Claimant failed to promptly report his injury in violation of the Amtrak Rule of Conduct C. Therefore, the Carrier had sufficient reason to impose discipline.

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.

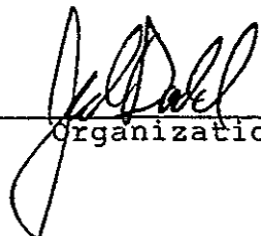
In the case at hand, the Claimant received a ten day suspension for his wrongdoing. The record reveals that the Claimant had previously received a 27 day suspension for failure to comply with instructions. This Board cannot find that the discipline issued by the Carrier was unreasonable, arbitrary, or capricious in this case. Therefore, the claim must be denied.

Award

Claim denied.


Peter R. Meyers
Neutral Member


Patricia A. Engle
Carrier Member


J. J. Dail
Organization Member

16-1-90