

BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 986

CASE NO. 123
DOCKET NO. NEC-BMWE-SD-2441D

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 three-day suspension of Claimant John Oliver for alleged violation of Rule L of the N.R.P.C. (Amtrak) Rules of Conduct on December 14, 1988, was unwarranted.
2. The Carrier willfully and flagrantly violated the Agreement.
3. That Claimant's discipline be overturned and that he be exonerated. If not, a letter of warning or instruction is acceptable.

FINDINGS:

Claimant John Oliver was employed by the Carrier as a trackman at Trenton, New Jersey.

On January 4, 1989, the Carrier notified the Claimant of the following charge and scheduled a formal investigation for January 11, 1989:

Violation of Rule L of the N.R.P.C. Rules of Conduct
. . . "Employees must obey instructions . . . from
Amtrak supervisory personnel . . ."

Specifically, on December 14, 1988, at approximately 10:45 a.m. at MP 61.2, you used an alleged injury to avoid complying with legitimate instructions from G. L. Wolfe and J. McLaughlin to operate a Burro Crane.

A second letter dated January 4, 1989, was sent by the Carrier to the Claimant advising him that the charge was rescinded. However, on January 9, 1989, the Carrier notified the Claimant that the January 4, 1989, Notice of Formal Investigation was postponed and rescheduled to January 17, 1989. The disciplinary investigation was held and completed on January 17, 1989. On January 30, 1989, the Carrier

notified the Claimant that he had been found guilty of the charge brought against him and was assessed discipline of a three-day suspension. On January 17, 1989, the Claimant filed an appeal of his suspension, which was denied by the Carrier on April 13, 1989. The Organization thereafter filed a claim on Claimant's behalf, challenging his suspension.

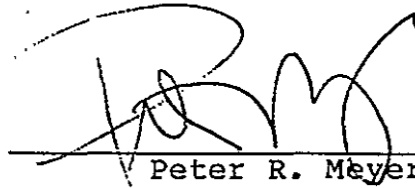
This Board has reviewed the evidence and testimony in this case and we find that there is sufficient evidence in the record to support the finding that the Claimant was guilty of violating Amtrak Rule of Conduct L when he failed to comply with legitimate instructions from his supervisor.

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.

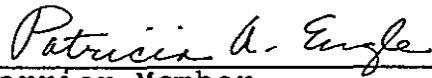
In the case at hand, the Claimant did not follow the instructions of his supervisor as he is required to do. The Carrier issued a three day suspension to him. This Board has stated in the past that insubordinate behavior is grounds for discipline up to and including discharge in some cases. Therefore, given the facts in this case, this Board cannot find that the action taken by the Carrier was unreasonable. The claim must be denied.

Award

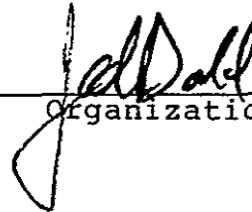
Claim denied.



Peter R. Meyers
Neutral Member



Carrier Member



Organization Member

10-1-90