

BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 986

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
and
NATIONAL RAILROAD PASSENGER CORPORATION (AMTRAK)

Case No. 129

STATEMENT OF CLAIM: Claim of the Brotherhood that:

1. The ten (10) working day suspension of Claimant Frank Boatwright on October 18, 1989, was unwarranted.
2. The Carrier failed to administer and enforce its excessive absenteeism policy in a uniform manner. The Claimant was never warned or counseled in regards to violating said policy.
3. The Carrier wrongfully charged the Claimant with violating its excessive absenteeism policy in regards to the Claimant's overtime in that overtime is not included in said policy.
4. The Claimant's record should be cleared and the Claimant should be exonerated of the charge.

FINDINGS:

Claimant Frank Boatwright was employed by the Carrier as a trackman.

On September 19, 1989, the Carrier notified the Claimant to appear for a formal investigation in connection with the following charge:

Charge: You have been excessively absent, in that you were absent in whole or in part on the following dates, September 9, 13, and 15. These days represent regular days and also overtime jobs which you accepted.

The hearing took place on October 5, 1989. On October 18, 1989, the Carrier notified the Claimant that he had been found

guilty of the charges against him and was being assessed discipline of a ten (10) working day suspension. The Claimant appealed his discipline on October 23, 1989, and the Organization followed with a claim on behalf of the Claimant on November 10, 1989.

The Organization contends that the Carrier failed to administer and enforce its excessive absenteeism policy in a uniform manner; that the Claimant was never warned or counseled in regards to violating said policy; and that the Carrier wrongfully charged the Claimant with violating its excessive absenteeism policy in regards to the Claimant's overtime in that overtime is not included in that policy.

On December 1, 1989, the Carrier reaffirmed its decision, but reduced the discipline assessed the Claimant to a ten (10) day suspension, instead of a ten (10) working day suspension. The Carrier maintains that absence from work during an employee's regular tour of duty or during an overtime assignment is considered as being absent from work and that the Claimant was guilty of violating the Carrier's excessive absenteeism policy. The parties being unable to resolve the issues, this matter came before this Board.

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 being absent in whole or in part on September 9, September 13, and September 15, 1989. Those three absences constitute excessive

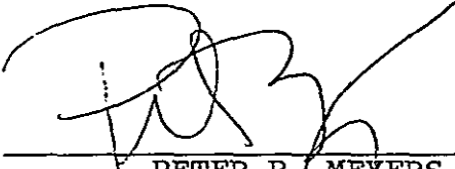
absenteeism according to the policy of the Carrier and therefore, the Claimant was properly found guilty of excessive absenteeism.

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.

The Carrier's policy requires counseling, then a letter of warning, and then a 10-day suspension for individuals who are in the process of violating the excessive absenteeism policy. The Claimant in this case had previously received counseling and a letter of warning. Therefore, it was appropriate for the Carrier to issue the 10-day suspension to the Claimant for the latest incident of excessive absenteeism.

AWARD

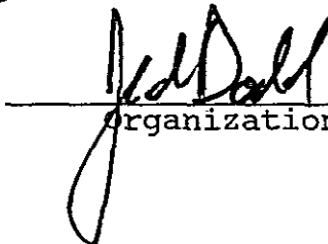
Claim denied.



PETER R. MEYERS
Neutral Member



Patricia A. Engle
Carrier Member



J. M. Dalt
Organization Member

Date: 8-8-91