

BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 986

Case No. 147

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

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that:

1. The sixty-day suspension of Joseph A. Marier, Jr. for his alleged violation of Amtrak Rules of Conduct Rules G and F was arbitrary, capricious, and without just cause.
2. Claimant Marier's record shall be cleared of the charge leveled against him and he shall be compensated for all wage loss suffered.

FINDINGS:

Claimant Joseph A. Marier, Jr. was employed by the Carrier as a maintenance of way repairman at the Carrier's high speed surfacing unit in Pennsylvania.

On December 18, 1990, the Carrier notified the Claimant to appear for a formal investigation in connection with the following charges:

Violation of Rule G . . . Rule F of Amtrak Rules of Conduct . . .

Specification: On December 10, 1990, at approximately 9:15 p.m. at M.P. 64.7, Bristol, PA, you were observed by Project Engineer Bill Faust and Supervisor Chris Sheppard to be acting in a strange and unusual manner. Further observation and questioning led them to believe that reasonable cause D & A testing was necessary. This action was based on both the scent of alcohol and the unusual manner in which you acted.

The hearing took place on January 7, 1991. On January 22, 1991, the Carrier notified the Claimant that he had been

found guilty of all charges and was being assessed discipline of a sixty-day suspension, with time held out of service to apply beginning December 10, 1990, and ending February 7, 1991.

Thereafter, the Organization filed a claim on the Claimant's behalf, challenging his suspension. The Carrier denied the claim.

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 violating Rule G and Rule F. The record reveals that the Claimant smelled like alcohol when he was at work. He was asked, and he admitted to having beer for lunch that afternoon prior to coming on duty. Claimant also admits having his knife out when he was speaking with his Supervisor, although he denies holding the knife in a threatening manner toward the Supervisor. Finally, it is clear from the testimony in the transcript that the Claimant acted in a boisterous and threatening manner toward his Supervisor during the dispute that occurred on the date in question.

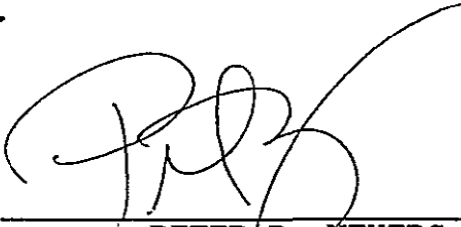
Once this Board has determined that there is sufficient evidence in the record to support the guilty finding, we next turn our attention to the type of discipline imposed. This Board will not set aside a Carrier's imposition of discipline unless we find its action to have been unreasonable, arbitrary,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

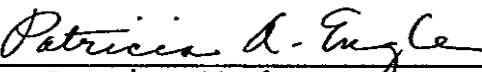
The Claimant's service record indicates that he had

previously received a 15-day suspension and a 24-day suspension. Consequently, this Board cannot find that it was unreasonable for the Carrier to issue him a 60-day suspension for the wrongdoing in this case. Therefore, the claim will be denied.

AWARD

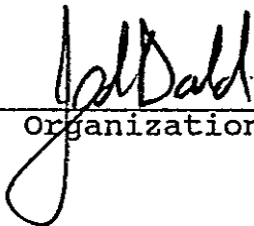
Claim denied.



PETER R. MEYERS
Neutral Member

Patricia A. Engle
Carrier Member

Dated: 9-30-92



J. D. Dadd
Organization Member