

BEFORE SPECIAL BOARD OF ADJUSTMENT 986

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

Case No. 165

STATEMENT OF CLAIM: Claim of the Brotherhood that:

1. The 10-day suspension of Electrician Rominie Hinds for alleged violation of Rules L and O was without just and sufficient cause and on the basis of unproven charges (System File NEC-BMWE-SD-3189D).
2. The Claimant shall be exonerated of the charges and be compensated for all loss of time.

FINDINGS:

On September 9, 1992, the Claimant R. Hinds and two other electricians were receiving their work assignments from Foreman R. Gray. They were instructed that they would be working at the Sunnyside Yard. Foreman Gray further instructed the Claimant to put on his safety gear since he was not wearing it. Both then proceeded to leave the room. When they returned, the Claimant allegedly refused to go to the Sunnyside Yard and instead said he was going home.

On September 11, 1992, the Claimant was charged with alleged violation of Rule L, insubordination, and Rule O, abandoning one's work assignment. The Claimant was found guilty as charged and assessed a 90-day suspension.

After an appeal by the Organization, the finding of guilt was upheld but the discipline was reduced to a ten-day suspension with the Claimant being compensated for

the additional 25 days that he was held out of service. The Organization, however, continues its appeal on behalf of the Claimant contending that the Carrier failed to prove the charges leveled against the Claimant.

The parties not being able to resolve the issues, this matter came before this Board.

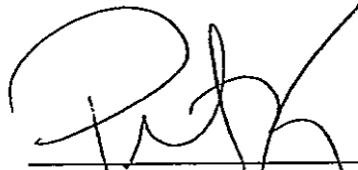
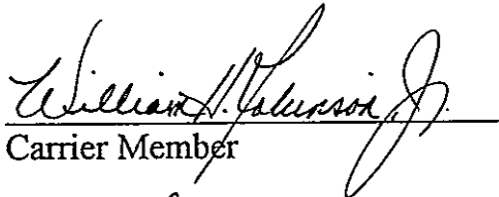
This Board has reviewed the evidence and testimony in this case and we find that there is sufficient evidence in the record to support the finding that the Claimant was guilty of insubordination when he failed to comply with the instructions of his supervisor and left work without permission from supervision. Consequently, the Claimant was properly found guilty of violating the insubordination rule, Rule L, and Rule O, which prohibits abandoning one's work assignment.

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 impose. This Board will not set aside a Carrier's imposition of discipline unless we find its actions to have been unreasonable, arbitrary, or capricious.

The Claimant's previous service record reveals six suspensions ranging from five to fifteen days. In this case, although the Claimant originally received a 90-day suspension, it was subsequently reduced to a ten-day suspension. Given the previous disciplinary history of this Claimant, and the serious wrongdoing of which he was properly found guilty in this case, this Board cannot find that the Carrier acted unreasonably, arbitrarily, or capriciously when it issued the ten-day suspension to him. Therefore, the claim will be denied.

AWARD

Claim denied.

  
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PETER R. MEYERS  
Neutral Member  
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Carrier MemberDATED: July 7, 1994  
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Organization MemberDATED: 7-7-94