

BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 986

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

Case No. 180

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

1. The dismissal of Trackman W. R. Lynch for alleged violation of Rules 'F' and 'K', in that he allegedly falsely reported sustaining a personal injury on November 2, 1994, was without just and sufficient cause and on the basis of unproven charges (System File NEC-BMWE-SD-3410D).
2. The Claimant shall be returned to the Carrier's service, his record cleared of the charges leveled against him and he shall be paid for all wage loss suffered.

FINDINGS:

The Claimant was employed by the Carrier as a trackman and assigned to Gang A682 before he was dismissed

On November 2, 1994, the Claimant allegedly sustained an injury to his lower back while a passenger in a Carrier vehicle which was involved in a minor collision. The Claimant reported the injury to his foreman and then to the assistant supervisor. Claimant was taken to the Central Medical Center in Baltimore, Maryland where he received immediate medical treatment. The Claimant was released back to work without any restrictions.

On November 15, 1994, the Claimant received notice that he was being charged with alleged violation of Rules "F" and "K" for allegedly reporting a false injury. Claimant was found guilty as charged during a formal investigation and, subsequently, he was dismissed from the

Carrier's service.

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

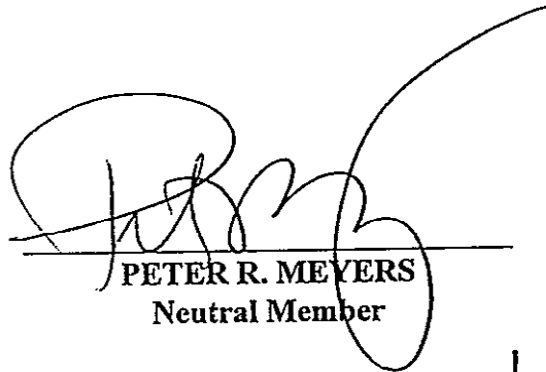
This Board has reviewed the evidence and testimony in this case and we find that there is sufficient evidence in the record to support the finding that the Claimant was guilty of falsifying an injury report. The record reveals that on November 2, 1994, the Claimant and two other employees were returning to headquarters and the rear door of their truck scraped a pole. However, the damage was minor and there was simply no evidence in the record that the Claimant did sustain a physical injury as a result of the minor mishap. A thorough review of the transcript indicates that the only evidence of the Claimant's injury is his report. None of the employees involved in the incident nor the medical professionals observed any indication of an injury.

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 in this case was employed by the Carrier for approximately six months prior to the incident. Given that short tenure of service and the seriousness of this wrongdoing involving dishonesty, this Board cannot find that the Carrier acted unreasonably, arbitrarily, or capriciously when it terminated the Claimant. Therefore, the claim will be denied.

AWARD:

Claim denied.


PETER R. MEYERS
Neutral Member
CARRIER MEMBERDATED: 9-25-95
ORGANIZATION MEMBER
DATED: 9-25-95