



**Award No. 17071**

**Docket No. MW-17518**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

**Jerry L. Goodman, Referee**

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**PARTIES TO DISPUTE:**

**BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES**

**NORFOLK AND WESTERN RAILWAY COMPANY**

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

(1) The Carrier violated the Agreement when, without just and sufficient cause and on the basis of unproven and disproven charges, it dismissed Machine Operator B. D. Moore from service on May 18, 1967 and subsequently held an investigation which was neither fair nor impartial. (System File N-1811)

(2) Machine Operator B. D. Moore be restored to service with seniority, vacation and all other rights unimpaired; the charge be stricken from his record and he be paid for working hours actually lost in accordance with Rule 32 (c).

**OPINION OF BOARD:** The record in this case demonstrates that Claimant received a fair and impartial hearing in which sufficient evidence was adduced to establish his guilt of the offense charged.

However, when viewed in the light of this man's unblemished record of thirty years employment, the discipline of permanent dismissal was unreasonable.

Consequently, Claimant shall be restored to service with seniority, vacation and all other rights unimpaired but without compensation for all time lost.

**FINDINGS:** The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

That the Carrier and the Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the discipline imposed was excessive.

**AWARD**

Claim sustained to the extent indicated in this Opinion.

**NATIONAL RAILROAD ADJUSTMENT BOARD**  
By Order of **THIRD DIVISION**

ATTEST: S. H. Schulty  
Executive Secretary

Dated at Chicago, Illinois, this 18th day of April 1969.