

PUBLIC LAW BOARD NO. 1760

Award No. 22

Docket No. MW-CGO-75-9

Parties Brotherhood of Maintenance of Way Employees

to and

Dispute Norfolk and Western Railway Company *Western Region*

Statement of Claim 1. Carrier violated the effective Agreement on November 7, 1975, by unjustly dismissing George Maybon from Carrier's service and failed to allow him a fair and impartial hearing.

2. Claimant George Maybon shall be reinstated and paid for all time held out of service.

Findings The Board, after hearing upon the whole record and all evidence, finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, that this Board is duly constituted by Agreement dated February 2, 1976, that it has jurisdiction of the parties and the subject matter, and that the parties were given due notice of the hearing held.

Claimant Laborer was dismissed from service on November 7, 1975. The General Chairman, under date of November 17, 1975, requested a hearing under Rule 20 and advised that he would be available December 16, 17 and 18, 1975.

A formal investigation was therefor scheduled for December 16, 1975:

"Determine your responsibility with your failure to follow instructions given you by your foreman on the morning of November 7, 1975."

Following the formal investigation Claimant was advised that as a result thereof he was dismissed from all services of the Norfolk and Western Railway Company for his failure to follow instructions given by his Foreman.

The Board concludes that Claimant was given a fair and impartial hearing in accordance with Rule 20.

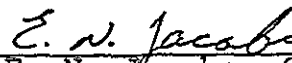
There was sufficient evidence adduced to support Carrier's conclusion as to Claimant's guilt. Claimant was guilty as charged, including the fact that he threatened to kill his foreman, which threat was corroborated by other witnesses.

In the circumstances we find that the discipline was not unreasonable.

Award Claim denied.



M. A. Christie, Employee Member



E. N. Jacobs, Carrier Member



Arthur T. Van Wart, Chairman
and Neutral Member

Issued at Salem, New Jersey, April 4, 1980.