

PUBLIC LAW BOARD NO. 1760

Award No. 25

Docket No. MW-CGO-79-6

Parties Brotherhood of Maintenance of Way Employees
to and
Dispute Norfolk and Western Railway Company

Statement

of Claim: Carrier violated the effective Agreement when Mr. Tyler Howard was unjustly dismissed from service on August 22, 1979.

Claimant Tyler Howard shall be reinstated and paid for all time held out of service as a result of not giving him a fair and impartial investigation as provided in the Agreement.

Findings: The Board, after hearing upon the whole record and 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, a Section Laborer, assigned to Gang No. 50, was dismissed from service effective August 2, 1979 because of:

"Your insubordination to your supervisor on this date, at approximately 7:30 a.m. at Landis Yard, and you also refused to follow instructions passed on to you by your supervisor and left the company property immediately thereafter without permission."

As a result of the formal investigation requested, Claimant was adjudged guilty as charged and the discipline was upheld.

Here, the Employees allege that a true and accurate copy of the transcript was not made. However, a comparison reflects but a slight difference. We find that the words eliminated were not such as to cause change in the content and purpose of the investigation. Nevertheless, Carrier is placed on notice that it must comply with its obligation under Rule 20 to provide a true and accurate transcript.

The Board, on the basis of Claimant's long years of service, and the particular circumstances will reinstate Claimant to service


with all rights unimpaired but without pay for time out of service.
He, too, is now on notice that he has been given a last chance
opportunity to demonstrate that he is desirous of working for Carrier.

Award: Claim disposed of as per findings.

Order: Carrier is directed to make this Award with thirty (30)
days of date of issuance shown below.


M. W. Christie, Employee Member


G. C. Edward, Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member