

PUBLIC LAW BOARD NO. 1760

Award No. 33

Case No. 33

Docket No. MW-DEC-80-59

Parties Brotherhood of Maintenance of Way Employees

to and

Dispute Norfolk and Western Railway Company (Former Wabash Railroad)

Statement

of Claim: Claim on behalf of Mr. G. L. Pattengale account of assessment of ten (10) days actual suspension from service as a result of investigation held on August 29, 1980.

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, on August 8, 1980, was operating a Brush Cutter and struck a signal apparatus at approximately 8:45 AM, in the vicinity of Buck Creek, Indiana. As a result of an investigation held in connection therewith, he was assessed a ten (10) day actual suspension as discipline for his responsibility.

The Board finds that there was sufficient evidence adduced by Carrier to support the conclusions reached as to Claimant's culpability.

However, there are circumstances in the record which serve to mitigate the degree of discipline assessed. The discipline assessed shall be reduced to a Reprimand.

Award: Claim disposed of as per findings.

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

M. A. Christie
M. A. Christie, Employee Member

E. N. Jacobs, Jr.
E. N. Jacobs, Jr. Carrier Member

Arthur T. Van Wart
Arthur T. Van Wart, Chairman
and Neutral Member

Issued at Wilmington, Delaware, February 24, 1982.