

PUBLIC LAW BOARD NO. 1760

Award No. 41

Case No. 41

Docket No. MW-MPR-81-4

Parties Brotherhood of Maintenance of Way Employees

to and

Dispute Norfolk and Western Railway Company (Former Wabash Railroad)

Statement

of Claim: Appeal of discipline of dismissal assessed R. L. Thomas as a result of formal investigation held on June 3, 1981 and requesting that he be reinstated and paid for all time lost.

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 Carpenter was relieved from service April 29, 1981:

"Account due to excessive absenteeism."

A formal investigation was requested, granted and held June 3, 1981. Thereafter Claimant was advised, June 23, 1981, that he was dismissed from all service.

The Board finds that Claimant was accorded the due process to which entitled under his discipline rule (Rule 20).

There was sufficient evidence adduced, including Claimant's admissions, to support Carrier's conclusion as to Claimant's culpability. Claimant had been late or absent 17 times. Even though an employee may request and receive authority to be absent the frequency of such requests can accumulate to become abusive of that process and may thereby amount to excessive absenteeism which fact may lead to a disciplinary charge and subsequent discipline if proven.

There are circumstances present which serve to mitigate the discipline assessed. The Board will conditionally reinstate Claimant

to service with all rights unimpaired but without pay for time out of service subject to the following. Claimant will be placed in a probationary status for a one year period without prejudice to his coverage by Rule 20 thereby, that he pass the necessary return to service examinations and that he and his Local Chairman will meet with Carrier's local representative to review Claimant's record in order that Claimant will understand what his absenteeism represents, to acknowledge his responsibility for and intent to protect Carrier's service and lastly, to acknowledge that he understands the implication of his probationary status and that any violation thereof, if proven, may result in his dismissal.

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, Employee Member


S. C. Lyons, Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member

Issued May 13, 1983.