

PUBLIC LAW BOARD NO. 1760

Award No. 47

Case No. 47

Docket No. MW-DET-81-4

Parties Brotherhood of Maintenance of Way Employees

to and

Dispute Norfolk and Western Railway Company (Former Wabash)

Statement
of Claim:

1. Carrier violated the effective agreement when laborer Timothy G. Hurt was unjustly dismissed on October 19, 1981.

2. Claimant Hurt shall now be returned to his former position with all rights unimpaired and that he be paid for all time lost as provided in Rule 20 of the Agreement.

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, a Track Laborer with a crossing gang, was dismissed from service by the Roadmaster for violation of Rule G. A formal investigation was requested, granted, and held on September 2, 1981. Thereafter, Claimant was notified that the dismissal was upheld.

On October 16, 1981, a lumber company, adjacent to the tracks, delivered to Claimant a 12 can pack of beer as a reward for a favor performed by the track gang the day previous. Claimant was instructed to put it away and that they would take care of it after quitting time.

Subsequently, Claimant was observed stumbling around and, apparently, was unable to talk without slurring his words.

An on-ground investigation disclosed 12 empty beer cans behind a pile of ties. Claimant was told to leave the property or he would be fired. Claimant said to fire him. He was fired. The record reflects corroboration of these statements.

There was sufficient evidence adduced, including Claimant's admission that he was drinking, to support Carrier's conclusion as to Claimant's guilt.

In the circumstances the discipline assessed was found to be reasonable. This claim will be denied.

Award: Claim denied.

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

S.C. Lyons
S. C. Lyons, Carrier Member

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

Issued December 14, 1984.