

PUBLIC LAW BOARD NO. 1760

Award No. 58

Case No. 58

Docket No. MW-DEC-80-37

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 Foreman W. A. Craft was unjustly assessed ten (10) days deferred suspension that activated a fifteen (15) day deferred suspension as of December 14, 1982, which case is also before this Board as Case No. 57.

2. Claimant Craft shall not be paid in the amount that he lost due to the assessed 15 days deferred suspension which was activated starting July 25, 1983 and extending through August 3, 1983 and that this investigation be stricken from his record.

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 was notified, under date of June 20, 1983, to attend a formal investigation on July 14, 1983 on the charge:

"...to determine your responsibility in connection with your being in violation of Norfolk and Western Railway Company Standard Plan 333 concerning temporary slow order sign showing the yellow approach board being attached to a standard galvanized post, in connection with your attaching a yellow caution board to signal located at mile post 341.3, west of Tolono on June 15, 1983 in lieu of attaching it to the post as required by Standard Plan 333."

Claimant, on June 15, 1983, was assigned as track patroller at Bement, Illinois. He was instructed to put up temporary slow order boards west of Tolono, Illinois account the track gang would be working on the track, raising the switch at west end of Tolono. Claimant placed one of the temporary slow order boards on the signal located at MP 341.3 instead of on the prescribed galvanized post.

There is no question of guilt in this case. Claimant so admitted (Q/A 99 - P. 9). The question raised concerns the determination of the degree of discipline assessed and its ramification. The failure here arose because Claimant improperly hung the yellow board (slow order board) on the signal located at MP 341.3 instead of on prescribed galvanized post. He failed to alert the dispatcher. After quitting time Claimant did find a pole and hung the yellow signal properly.

As a result of the investigation Carrier concluded Claimant to be guilty as charged. He was given ten (10) days deferred suspension as discipline therefor. However, said ten days discipline activated the fifteen (15) days deferred suspension previously assessed to Claimant, on December 14, 1982. Thus, under the discipline system in effect Claimant was therefore required to serve the pending fifteen (15) days discipline.

It is obvious that Claimant, in any event, would have been disciplined. Hence, no matter what that discipline was the discipline system mandated that it would serve to activate the previous pending discipline. In the circumstances, the discipline here is found to be reasonable. This claim will be denied.

Award: Claim denied.


M. A. Christie, Employee Member


S. C. Lyons, Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member