

PUBLIC LAW BOARD NO. 1760

Award No. 69

Case No. 69

File: MW-DEC-84-100 (Miller)

Parties Brotherhood of Maintenance of Way Employees

to and

Dispute Norfolk and Western Railway Company (Former Wabash)

Statement

of Claim: Appeal from discipline of dismissal assessed R. M. Miller by letter dated November 19, 1984 as a result of investigation held on November 7, 1984.

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 Laborer, on the Decatur Division, had been employed some 11 1/2 years. He was notified following a formal investigation as follows:

"As a result of the formal investigation held at Decatur, Illinois on November 7, 1984, in connection with your being insubordinate with R. L. King at approximately 10:00 AM on October 12, 1984, at Mile Post 352.8 east of Bement, Illinois, in that you refused to comply with Foreman King's verbal instructions to you, to drive lag bolts at the above stated time and place following which you threw down your maul and walked off the job, You are hereby dismissed from all services of the Norfolk and Western Railway Company..."

Claimant was accorded the due process to which entitled under the discipline rule.

There was sufficient evidence adduced to support Carrier's conclusion as to Claimant's culpability.

However, in light of Claimant's years of service, his service record, and the pleas made on his behalf by the Union, Claimant will be restored to service without pay and be placed in a probationary status for a 1 year period subject to passing the necessary return to service examinations.

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

S. C. Lyons, Carrier
S. C. Lyons, Carrier Member
dissent to
Reinstatement

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

Issued August 18, 1986.