

(MW-MUN-75-105)

PARTIES TO DISPUTE:

Brotherhood of Maintenance of Way Employees
vs.
Norfolk and Western Railway Company

STATEMENT OF CLAIM:

1. Carrier dismissed Claimant F. R. Gereau from service without just and sufficient cause, for alleged claim for reimbursement of expenses not actually incurred.

2. Claimant be paid for all wages due him and that his August expense account, except for August 18, 1975, now be approved and placed in line for payment. Also that, since the Carrier failed in its burden to sustain its charges, the discipline assessed the Claimant was therefore unwarranted and not based upon proven charges and Claimant should, in addition to the foregoing, now be allowed the remedy of Rule 22(e).

FINDINGS: This Board upon the whole record and all the evidence finds that:

The carrier and employee involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, as amended.

This Board had jurisdiction over the dispute involved herein.

OPINION:

The Carrier's disciplinary suspension was predicated upon its conclusion that the Claimant knowingly and willfully endeavored to receive compensation for meals not deserved.

The record reflects no such intent on the part of the Claimant. While the record raises to doubt that the purported injury was sustained on-the-job, we find no reason to conclude that the

Claimant was intentionally attempting to deceive the Carrier by his actions. If the Carrier felt such meal claims were unjustified, it merely had to deny them. There seems to be little doubt but that the Claimant's status was well-known to the Carrier at all times and that it was aware of the Claimant's attempt to report for work. This is hardly the condition upon which an attempt to deceive the Carrier would take place. In any case, removal is far overreaching, assuming that the Claimant is deserving of discipline.


While we shall not order payment to the Claimant for the meals involved, we direct that he be compensated for the period held out of service, less the first month of such discipline. Such compensation shall be at the appropriate, regular rate, less any and all compensation he may have received from any other source during the period held out of service, less the first month.

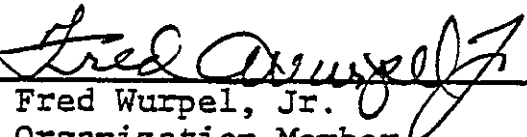
AWARD:

The Agreement was violated to the extent set forth in the Opinion.

AWD-14, 1837


James F. Searce
Neutral Member


G. C. Edwards
Carrier Member


Fred Worpel, Jr.
Organization Member

Dated this 28th day of April, 1980 at Atlanta, Ga