

PUBLIC LAW BOARD 1837  
(MW-BVE-77-75)

Case No. 10

PARTIES TO DISPUTE:

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

STATEMENT OF CLAIM:

1. The carrier violated the effective Agreement dated February 1, 1951, when it administered harsh and unjustified discipline of dismissal on claimant H. E. Alexander.
2. The claimant be restored to service with seniority and benefits unimpaired and payment allowed for the assigned working hours actually lost, less any earnings in the service of the company.

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 has jurisdiction over the dispute involved herein.

OPINION:

Claimant was hired as a Laborer on May 31, 1977. The record shows that the Claimant was absent thereafter in July, and numerous days in August and September. By letter dated October 24, 1977, the Claimant was notified of a hearing in connection with his "habitual and chronic absenteeism."

As a result, he was removed from service. The Claimant asserts

ill health, unsubstantiated and personal problems. The Organization asserts the procedural defense of an improper hearing and that the Carrier did not provide progressive discipline. All such defenses fall upon barren ground; indeed, as a new employee the Claimant owed a demonstration of his worthiness instead of a persistent, clearly unsatisfactory record of attendance. He admits to having been repeatedly warned of the consequences of a continuation of such untoward practices -- to no avail. The Carrier has a clear right to be able to expect regular attendance of its employees; such was not the case here.

AWARD:

Claim is denied.

James F. Scarce  
James F. Scarce, Neutral Member

G. C. Edwards  
G. C. Edwards, Carrier Member

W. E. LaRue  
W. E. LaRue, Organization Member

Dated at Atlanta, Ga this 12 day of Aug, 198