

PUBLIC LAW BOARD 1837

(MW-BVE-77-76-78)

Case No.11

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 assessed the maximum penalty of dismissal. Such penalty is excessive and unjustified.
2. Claimant A. L. Stovall 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 the 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 May 31, 1971 as a Laborer; he was assigned to the T-6 Gang. For the several months he was employed prior to his removal, the Claimant accrued excessive absences doing so without prior approval or acceptable excuse. Then, in September 28, 1977, he walked off the job without

approval or justification to his supervisor of his intent to do so. For both separate offenses, excessive absenteeism and absence without approval, he was given a hearing at which time he essentially admitted such infraction, citing unspecified "personal reasons" as the basis therefor.

The Organization contends the claimant was not given a fair opportunity to correct his attendance record and to become fully aware of the Carrier's expectations of him; it also asserts an unfair hearing procedure by having the Claimant's supervisor as hearing officer.

We find no basis for any asserted procedural errors on the conduct of the hearing. Additionally, we are unconvinced that the Claimant was not aware of the potential of removal if his poor attendance persisted. Being a short service employee, he should have been concerned to demonstrate himself as a responsible employee. He did not.

AWARD:

Claim is denied.

James F. Searce  
James F. Searce, 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 1980