

BEFORE PUBLIC LAW BOARD NO. 1837

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

AND

NORFOLK AND WESTERN RAILWAY COMPANY

Award No. 84

STATEMENT OF CLAIM: Claim of the Brotherhood that:

Claim on behalf of J. G. Christen requesting that he be reinstated and paid for time lost, as a result of his dismissal from service following investigation held on September 24, 1993, in connection with conduct unbecoming an employee by attempting to start an altercation with other employees in Company camp trailer and subsequent belligerence to these employees, Railroad police, and EMS medical personnel who were attending to him.

Upon the whole record and all the evidence, after hearing, the Board finds that the parties herein are carrier and employee within the meaning of the Railway Labor Act, as amended, and this board is duly constituted by agreement under Public Law 89-456 and has jurisdiction of the parties and subject matter.

This award is based on the facts and circumstances of this particular case and shall not serve as a precedent in any other case.

This Board has reviewed the evidence and testimony in this case and we find that there is sufficient evidence in the record to support the finding that the Claimant was guilty of violating Carrier rules prohibiting conduct unbecoming an employee and fighting. The record is clear that the Claimant entered a camp trailer at night and directed profane language toward the other employees and grabbed a co-worker by the throat

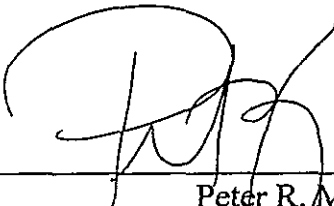
causing injury to others and himself. The Claimant did not appear at the hearing to dispute the charges.

Once this Board has determined that there is sufficient evidence in the record to support the guilty finding, we next turn our attention to the type of discipline imposed. This Board will not set aside a Carrier's imposition of discipline unless we find its actions to have been unreasonable, arbitrary or capricious.

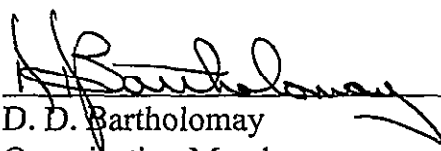
Numerous Boards have held that fighting and vulgar and profane language can be the basis for a dismissal. Given the proven and admitted wrongdoing of the Claimant in this case, this Board cannot find that the Carrier acted unreasonably, arbitrarily, or capriciously when it terminated his employment. Therefore, the claim must be denied.

AWARD

Claim denied.




Peter R. Meyers
Neutral Member



D. D. Bartholomay
Organization Member

DATED: 1-3-95



E. N. Jacobs, Jr.
Carrier Member

DATED: December 21, 1994