

PUBLIC LAW BOARD NO. 1838

Award No. 22

Case No. MW-PO-77-102

Parties Brotherhood of Maintenance of Way Employees

to and

Dispute Norfolk and Western Railway Company

Statement of Claim The Brotherhood requests that the Claimant William Hollie be restored to service, with vacation, seniority and all other rights unimpaired, and that he be paid for all time lost.

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 March 1, 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 Section Laborer, was employed and working as such on September 22, 1976. As a result of Claimant's refusal to obey the instructions of Assistant Foreman W. L. Saunders to assist in unloading cross ties and for his use of profanity towards and threatening physical harm to said Assistant Foreman, Claimant was removed from service. He was subsequently accorded a formal investigation. As a result of such investigation it was concluded that Claimant was guilty as charged. He was dismissed from service as discipline therefor.

The Board finds that Claimant was accorded a fair hearing.

There was sufficient evidence to support the conclusion reached by Carrier. The circumstances, and record developed herein, as well as Claimant's service record impels the Board to conclude that Carrier had not acted either arbitrary or capriciously and that such discipline was reasonable. In the circumstances this claim will be denied.

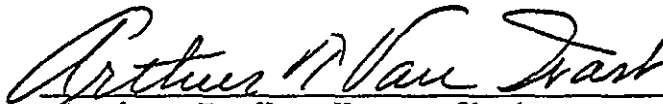
Award Claim denied.



A. D. Arnett, Employee Member



G. C. Edwards, Carrier Member



Arthur T. Van Wart, Chairman
and Neutral Member

Issued at Salem, New Jersey, December 27, 1979.