

PUBLIC LAW BOARD NO. 1838

Award No. 58

Docket MW-PO-79-9

Parties Brotherhood of Maintenance of Way Employees

to and

Dispute Norfolk and Western Railway Company

Statement of Claim Claim is made to restore W. E. Mitchell to service with pay for all time lost at his applicable rate of pay from the date of his dismissal until returned to service; also, that his vacation seniority and all other rights be unimpaired.

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.

The instant dispute concerns the dismissal of Claimant as a result of his insubordination on June 13, 1979 in refusing to comply with the instructions given to him by his Supervisor, Assistant Extra Gang Foreman R. L. Evans and for his use of profanity towards said Supervisor.

The Board finds that Claimant was afforded the due process to which entitled.

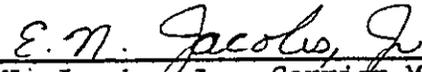
He had a fair hearing.

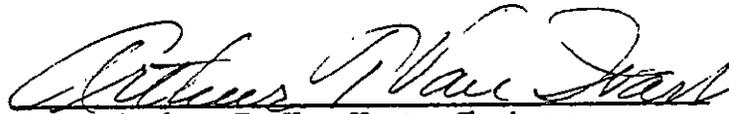
There was substantial evidence adduced to support Carrier's
conclusion as to Claimant's guilt.

The discipline in the circumstances is found to be not
unreasonable. This Claim will be denied.

Award Claim denied.


A. D. Arnett, Employee Member


E. N. Jacobs, Jr., Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member

Issued at Falmouth, Massachusetts July 22, 1981.