

PUBLIC LAW BOARD NO. 2556

Award No. 28

Case No. 34
File No. MW-395

Parties Brotherhood of Maintenance of Way Employees

to and

Dispute Southern Railway Company

Statement

of Claim: Claim of T&S Gang No. 3 Machine Operator
D. R. Hill that he be paid for all lost time
while suspended from service September 4 through
October 31, 1981 for conduct unbecoming an employee.

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 October 17, 1979, that it has jurisdiction of the parties and the subject matter, and that the parties were given due notice of the hearing held.

Claimant, on September 3, 1981, was employed as a Machine Operator on Carrier's Timber and Surfacing Gang No. 3. Following work on September 3rd while in a camp trailer with members of said gang an incident occurred wherein Claimant struck another employee and member of the Gang, J. O. Hobson, in the eye, following which knives came into the scene but were not used. After this information was given to a Supervisor the following morning, he removed Claimant from service pending an investigation.

Claimant was notified, under date of September 9, 1981, to attend a formal investigation on the charge of conduct unbecoming an employee while on company property. As a result of the investigation, held on September 29, 1981, Carrier concluded that Claimant was guilty. He was therefor suspended for the period of September 4th through October 31, 1981.

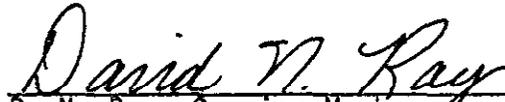
The Board finds that Claimant was accorded the due process to which entitled under his discipline rule. He was properly notified. Claimant was capably represented. He was accorded and exercised that right to bring witnesses. Claimant participated in the investigation in the examination of witnesses. He exercised his right of appeal.

The Board finds that there was sufficient evidence adduced to support Carrier's conclusion as to Claimant's culpability. That others may have fault and were not tried lessens not Claimant's guilt. What occurred, contrary to the Employees assessment was not horseplay.

The Board finds in the particular circumstances that the discipline assessed was not unreasonable. It is not our function to pass judgment on the parallel acts of others. This claim will be denied.

Award: Claim denied.


Bryce L. Hall, Employee Member


D. N. Ray, Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member

Issued September 10, 1983.