

Award No. 10  
Case No. 21

PUBLIC LAW BOARD NO. 2778

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Parties to Dispute:

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BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

-and-

BALTIMORE AND OHIO RAILROAD COMPANY

Statement of Claim:

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Carrier violated the Agreement when it suspended Line Gang Foreman L.J. Ohtola for five (5) days' claim for time lost plus any overtime worked by gang.

Findings:

While returning from lunch to the job site in a company truck, three of the trackmen under claimant's supervision became embroiled in a verbal dispute. The three participants were in the back of the truck while claimant was in the front seat with the operator of the vehicle. The argument developed into a bitter altercation that resulted in physical injuries to the three trackmen.

Claimant was assessed a five-day actual suspension for failing to restrain the trackmen and to control the

situation.

There is no evidence that claimant entered into the argument at any time. However, the record does support Carrier's finding that he failed to exercise the normal responsibilities of supervision. Carrier, as well as the men in his unit, had the right to expect him at least to attempt to stop the argument from becoming serious and to intervene as soon as physical violence became apparent. There is no indication that his own safety would have been threatened by any such action.

Accordingly, we find no valid ground for disturbing the decision to suspend claimant.

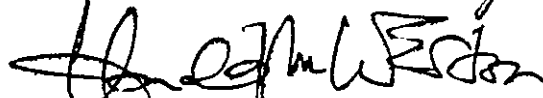
Claimant, of course, deserves much greater discipline for his grossly offensive remarks to Trackman Williams based solely on Mr. Williams' color and race. No employe should have to put up with that sort of talk and conduct, particularly from his supervisor. They deprive a foreman of much of his effectiveness and do much to label him as a man who can not be relied on by all employes under his supervision for fair treatment. Since the remarks were made well before the confrontation took place and inasmuch as the disputed disciplinary action was not based upon them, we have not taken them into consideration in reaching our

decision that the claim must be denied.

Award:            Claim denied

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Adopted at Baltimore, Maryland, February 2, 1983



Harold M. Weston, Chairman



Carrier Member



Employee Member