

PUBLIC LAW BOARD NO. 3765

Parties  
to the  
Dispute

CONSOLIDATED RAIL SYSTEM FEDERATION  
BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES

vs.

GRAND TRUNK WESTERN RAILROAD COMPANY

Case No. 9  
Award No. 10

STATEMENT OF CLAIM

- (a) The dismissal of Trackman Emil C. Grohman was arbitrary and capricious and based upon unsubstantiated charges.
- (b) Claimant Grohman shall be reinstated into Carrier's service, with seniority rights restored, and shall be compensated for all lost wages.

OPINION OF THE BOARD

At the time of the incident that gave rise to this case, Claimant, E. Grohman, was a Trackman employed by Carrier at Pontiac, Michigan. On August 6, 1982, he was notified to report for an investigation into the following charges:

...to determine your responsibility, if any, for alleged unauthorized removal of new railroad ties from Company property on July 14, 1982, at approximately 1530 hours....

A hearing into the matter was held on August 10, 1982. As a result of that hearing, Claimant was found guilty as charged and dismissed from Carrier's service. A record of that hearing has been made a part of the record of this case. A review of that record reveals that Claimant was guilty as charged and that severe discipline is appropriate. This Board, however, does not think that permanent dismissal from Carrier's employ is appropriate. While Claimant admitted that he took ties from railroad property, he contends they were unusable new ties that Carrier would dispose of and not use them under the tracks. He had a permit to pick up ties and he thought that the ties that could not be used under the rails were scrap.

While this Board is persuaded that Claimant knew that he should not have taken some of the ties, we are not persuaded, based on the total record, that permanent dismissal of Claimant serves any purpose. We think Carrier has made its point in this instance and that Claimant's return to work would be beneficial to both parties.

Claimant should be on notice that he is expected to return to work and become an exemplary employee. He should also be aware that

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any further incidents of a like manner will result in his permanent removal from service.

AWARD

Claimant shall be returned to service with seniority but without pay for lost time or benefits.

R. E. Dennis  
R. E. Dennis, Neutral Member

W. E. LaRue  
W. E. LaRue, Employee Member

R. J. O'Brien  
R. J. O'Brien, Carrier Member

Nov 20, 1987  
Date of Adoption