

PUBLIC LAW BOARD NO. 1760

Award No. 117

Case No. 117

Carrier File MW-DECR-89-36-LM-271

Parties Brotherhood of Maintenance of Way Employees
to and
Dispute Norfolk and Western Railway Company

Statement
of Claim: R. D. Walters-Dismissed for violation of Safety and General
Rules M, GR-23, GR-27 and 1028.

Findings: The Board has jurisdiction of this case by reason of the
parties Agreement establishing this Board therefor.

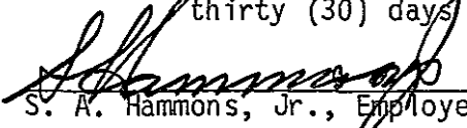
Claimant Lead Carpenter was on BB Gang 242 in the
vicinity of St. Louis, Missouri. Five members of Gang 242,
at approximately 12:30 PM, were returning company truck
305743, from lunch to their job site with the Claimant
driving, one of the gang members sitting behind Claimant
smoking a cigar. Claimant asked the smoker to either open
his window or put out his cigar which he failed to do. He
asked him again and there was no action taken. Claimant
stopped the truck and knocked out the rear window with a
sledge hammer.


As a result Claimant was charged with violating Norfolk
Southern Rules M, GR-23, GR-27 and 1028 in connection with
his conduct unbecoming an employee by using a sledge hammer
to the endangerment of fellow employees on August 10, 1989.
As a result thereof, Claimant was dismissed from service as
discipline therefor.


The Board after reviewing the record including
Claimant's clear discipline record has decided to reinstate
Claimant without pay for time out of service. He must, of
course, pass the necessary return to service physical
examinations.

Award: Claim disposed of as per findings.

Order: Carrier is directed to make this Award effective within
thirty (30) days of date of issuance shown below.


S. A. Hammons, Jr., Employee Member


L. F. Miller, Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member

Issued September 27, 1990.