

PUBLIC LAW BOARD NO. 1760

Award No. 26

Docket No. DEC-79-10

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

Statement of Claim Carrier violated the effective Agreement on March 27, 1979 when C. R. Burkhart, Sr. was assessed ten (10) days actual suspension without just and reasonable cause, and was not given a fair and impartial hearing.

Claimant C. R. Burkhart, Sr. shall be paid at his respective rate for all time held out of service, commencing on March 27, 1979 and continuing until he was returned to work, and the hearing be stricken from his record.

Findings The Board, after hearing upon the whole record and 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 February 2, 1976, that it has jurisdiction of the parties and the subject matter, and that the parties were given due notice of the hearing held.

Claimant, a regularly assigned crane operator, was operating locomotive Crane No. 514879 with a 55 foot boom on March 26, 1979.

Claimant's crane, on this date, about 3:10 p.m., struck a signal and signal apparatus resulting in extensive damage to said signal and signal apparatus.

Claimant was given an investigation in connection therewith. As a result thereof he was found guilty of negligence and was given a ten (10) day suspension as discipline therefor.

While there was a sufficiency of evidence to support Carrier's conclusion we find the record to be such as to cause the Board to reduce the discipline assessed to five (5) days.

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.


M. W. Christie, Employee Member


G. C. Edward, Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member