

PUBLIC LAW BOARD NO. 1760

Award No. 35

Case No. 35

Docket No. MW-DEC-80-54

Parties Brotherhood of Maintenance of Way Employees

to and

Dispute Norfolk and Western Railway Company (Former Wabash Railroad)

Statement

of Claim: Claim on behalf of Mr. H. L. Jordan account of assessment of 70 day actual suspension from service as a result of investigation held on August 27, 1980.

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 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 roadway equipment repairman, was dismissed on July 14, 1980. As a result of a request by the General Chairman, an investigation in connection therewith was held and Claimant notified:

"To report to Division Engineer's office at 780 East Cerro Gordo St., Decatur, Illinois on Wednesday, August 27, 1980, at 9:00 AM for a formal investigation to determine your responsibility if any, in connection with your being dismissed from service on July 14, 1980 by Engineer of Roadway Equipment, R. T. Driscoll and R. L. Still supervisor of Roadway Equipment."

Claimant was advised, under date of September 15, 1980, that:

"You have been assessed with seventy (70) days actual suspension."

The Board finds that it cannot reach the merits of dispute as the notice of investigation was totally inadequate to place the Claimant on notice as to what to prepare his defense against. It need not

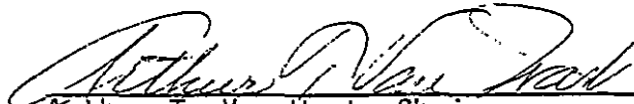
therefore reach any other issue raised. In the particular circumstances, this claim will be sustained.

Award: Claim sustained as per findings.

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


M. A. Christie, Employee Member


E. N. Jacobs, Jr., Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member

Issued at Wilmington, Delaware, February 24, 1982.