

PUBLIC LAW BOARD NO. 1760

Award No. 38

Case No. 38

Docket No. MW-DEC-80-41

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. L. T. Blue account his
dismissal from service as a result of investigation
held on July 18, 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 was dismissed as a result of an altercation with a fellow employee. The altercation occurred on June 18, 1980 at 11:45 AM when Claimant struck said fellow employee with a crescent wrench resulting in injury to said employee.

As a result of an investigation held in connection therewith, the dismissal was upheld.

The Board finds that there was no error so egregious as to cause reversal of the discipline.

There was sufficient evidence adduced to support Carrier's conclusion as to Claimant's culpability.

The discipline in light of the seriousness of the offense is found to be compatible therewith and is not deemed to be an arbitrary or capricious action by Carrier. In the circumstances, this claim will be denied.

Award: Claim denied.

M.A. Christie

M. A. Christie, Employee Member

E. N. Jacobs, Jr.

E. N. Jacobs, Jr., Carrier Member

Arthur T. Van Wart

Arthur T. Van Wart, Chairman
and Neutral Member