

PUBLIC LAW BOARD NO. 1760

Award No. 45

Case No. 45

Docket No. MW-STL-81-7

Parties Brotherhood of Maintenance of Way Employees

to and

Dispute Norfolk and Western Railway Company (Former Wabash Railroad)

Statement

of Claim: Appeal of dismissal of P. C. Moore as a result of investigation held on December 10, 1981, and request that he be reinstated to his former position and paid at his respective rate for all time lost.

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 Weedmower Operator on Carrier's St. Louis Terminal, was dismissed from service on November 4, 1981 for the theft of gasoline on October 28, 29 and 30, 1981 and for his failure to protect his assignment on October 26, 28, 29 and 30, 1981.

Request for formal investigation was made, granted and held December 9, 1981.

This is a companion case to that found in Case No. 43 which resulted in our Award No. 43 the findings of which by reference are incorporated herein. The only distinction between the facts in this case and that in Award No. 43 is that here the Claimant had fifteen years service and possessed a clear service record. The Board will reinstate Claimant to service with all rights unimpaired but without pay for time out of service and he will be placed in a probationary status for an eighteen month period with the reminder that should he be involved in any incident which is a violation of Company Rules such will also be considered a violation of his probation which, if proven, will on its face be sufficient cause for his dismissal.

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.A. Christie
M. A. Christie, Employee Member

S. C. Lyons
S. C. Lyons, Carrier Member

I dissent.

Arthur T. Van Wart
Arthur T. Van Wart, Chairman
and Neutral Member

Issued May 13, 1983.