

PUBLIC LAW BOARD NO. 1760

Award No. 51

Case No. 51

Docket No. MW-MOB-83-21

Parties Brotherhood of Maintenance of Way Employees

to and

Dispute Norfolk and Western Railway Company (Former Wabash)

Statement

of Claim: 1. Carrier violated the effected when laborer R. M. Hodge was unjustly assessed sixty (60) days actual suspension.

2. Claimant Hodge shall be paid for all time lost at his respective rate and this investigation be stricken from his record.

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 initially employed as a Tie Gang Laborer with Tie Gang No. 46843 on April 15, 1982. He was working on April 26, 1983 with the Tie Gang on the N&W main line in the vicinity of MP 208 between Wakenda and Carrollton, Missouri. Just prior to noontime the Assistant Foreman of the Tie Gang, K. L. White, instructed Claimant to clean off ties in order that the person assigned to that task, Laborer Pettigrew, could go to the bathroom and so that the rail could be respiked.

Shortly thereafter the Tie Gang Foreman, B. L. Dawson, observed Claimant standing without performing any work. Said Foreman reminded Claimant to clean the ties until Pettigrew came back. Claimant asserted that it was not his job, cursed Foreman Dawson and walked away. He used a profane expression as he walked away.

As a result, Claimant was advised by the Foreman that his time was being cut and that he was being relieved from duty pending a hearing. Claimant was notified, under date of April 29, 1983, to appear for a formal investigation on the charge:

"To determine your responsibility in connection with your failure to follow the instructions of extra gang foreman B. L. Dawson at 11:15 AM, April 26, 1983...in that you refused to clean off ties as instructed by Mr. Dawson...."

Subsequent to the investigation, Claimant was advised by the Carrier that he was guilty as charged. Claimant was assessed sixty (60) days actual suspension as discipline therefor.

The Board finds that Claimant was accorded the due process to which entitled under Rule 20 - Discipline and Grievances.

There was sufficient competent and credible evidence adduced to support the conclusions reached by Carrier as to Claimant's culpability. Claimant had previously been instructed by the Foreman and had commenced to do some of the work. The fact is, however, that Claimant failed to comply with Foreman Dawson's instructions. Claimant should have followed the instructions given him and thereafter grieved any complaint that he may have had as to the equity of the assignment given. Claimant's refusal to comply with a reasonable order from his immediate supervisor was an insubordinate act which raised havoc with the relationship between an employee and his employer. An employee is obligated to comply with reasonable work instructions for otherwise the basis of anarchy is created. No employer can nor will tolerate same. The work place is not a forum for debaters or free thinkers. The addage of work now and grieve later has been so engrained as a work ethic in the work force that it is beyond cavil. In the particular circumstances, the discipline assessed was reasonable. This claim will be denied.

Award: Claim denied.

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

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

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

Issued December 14, 1984.