

PUBLIC LAW BOARD NO. 1760

Award No. 59

Case No. 59

Docket No. MW-MOB-83-64

Parties Brotherhood of Maintenance of Way Employees

to and

Dispute Norfolk and Western Railway Company (Former Wabash)

Statement

of Claim: 1. Carrier violated the effective agreement when Machine Operator C. E. Dunbar was unjustly dismissed by letter dated November 17, 1983.

2. Claimant Dunbar shall now be reinstated with all rights unimpaired and be paid 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 was a Machine Operator on Rail Gang R-3 at Brunswick, Missouri, with some 8 1/2 years of service. He was notified, under date of October 19, 1983, by the Rail Gang Supervisor to attend a formal investigation on October 31, 1983 on the charge:

"...to determine your responsibility in connection with your being insubordinate to me at 7:30 AM, October 17, 1983 at Brunswick yard, Brunswick, Mo. in that you failed and refused to follow my instructions to climb into gondola car, NW 91398, and proceed to unload tie plates which occurred at 7:30 AM, October 17, 1983...."

As a result thereof Claimant was found to be guilty as charged. He was dismissed from the service 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 evidence adduced to support the conclusions reached by Carrier as to Claimant's culpability. The nature of the insubordination arose when Claimant was instructed to get into the gondola in order to distribute plates by hand in the car. Claimant who alleges he was upset said that he was not going to get into the car until every Track Laborer there was first in the car throwing out plates.

The essence of Claimant's refusal to comply with a reasonable work instruction was to get into a debate with his supervisor as to the particularities. It has been long held that unless a work instruction is inherently unsafe that one should obey same and grieve later if he has a quarrel therewith. Therefore, it must be concluded that Claimant was insubordinate. It would be chaotic to permit every employee to pass judgement on the nature of a work instruction. It would result in anarchy. The discipline for insubordination is discharge. Claimant had been previously disciplined for being insubordinate to the same supervisor. We find insufficient cause in the record to permit a change in the discipline. In the circumstances, this claim will be denied.

Award: Claim denied.


M. A. Christie, Employee Member


S. C. Lyons, Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member