

PUBLIC LAW BOARD NO. 1760

Award No. 61

Case No. 61

Carrier File MW-DEC-84-49

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 Michael M. Jones was unjustly dismissed from service by letter dated June 8, 1984, and did not receive a fair and impartial hearing.

2. Claimant Jones shall be paid at the respective rate of his position commencing April 16, 1984, continuing until restored to service with all rights unimpaired and the charge against him be dismissed.

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 Bridge Tender on Bridge 508 in Valley City, Illinois had been employed by Carrier some 9 years. He was advised by the Division Engineer, on June 8, 1984:

"As a result of a formal investigation held at Decatur, Illinois on May 22, 1984 in connection with your failure to properly perform the duties of your assignment as Bridge Tender, Bridge No. 508, Valley City, Illinois, during your tour of duty 3:00 P.M.-11:00 P.M., April 14, 1984, in that river traffic ("boats, etc.") was delay excessively causing the United States Coast Guard to lodge a formal complaint with the Dispatchers Office at Decatur, Illinois, and subsequently your giving false statements in connection with this incident. You are hereby dismissed from all

services of the Norfolk & Western Railway Company."

The Board finds that Claimant was accorded the due process to which entitled under his discipline rule.

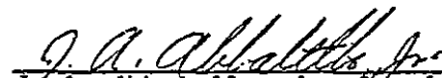
There was sufficient evidence adduced, to support the conclusions reached by Carrier as to Claimant's culpability.

The Board finds that there were circumstances in the record which serve to mitigate discipline. Claimant will be restored to service, without pay for the time out of service, subject to passing the necessary return to service examinations, and he is to be placed in a probationary status for 6 months. Such status does not affect his rights under the applicable discipline.

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, Employee Member


J. A. Abbateello, Jr., Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member

Issued December 8, 1985.