

PUBLIC LAW BOARD NO. 1837

Award No. 108

Parties to Dispute:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
and
NORFOLK AND WESTERN RAILWAY COMPANY

Statement of Claim:

1. The dismissal of Laborer L. F. Goble for alleged absence without permission and failure to protect his assignment beginning July 22, 1996 was without just and sufficient cause, based on unproven charges and in violation of the Agreement (Carrier's File MW-FTW-96-35).
2. Claimant L. F. Goble shall now be reinstated to service with seniority, vacation, and all other rights unimpaired and compensated for all wage loss suffered since April 26, 1997 and continuing until he is reinstated.

Upon the whole record and all the evidence, after hearing, the Board finds that the parties herein are Carrier and employee within the meaning of the Railway Labor Act, as amended, and this Board is duly constituted by agreement under Public Law 89-456 and has jurisdiction of the parties and subject matter.

This Award is based on the facts and circumstances of this particular case and shall not serve as a precedent in any other case.

AWARD

After thoroughly reviewing and considering the transcript and the parties' presentations, the Board finds that the claims should be disposed of as follows:

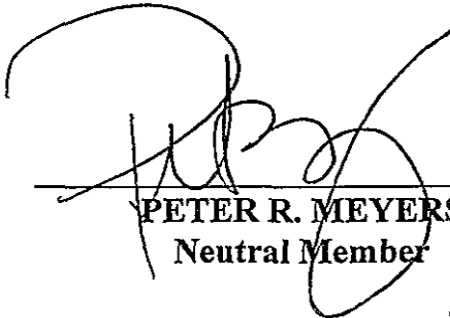
This Board finds that the Claimant was properly found guilty of not reporting for work or calling in to explain his consecutive absences beginning on July 22, 1996. Hence, the Carrier has proven conclusively that the Claimant was guilty of being absent without permission and failing to protect his assignment.

Once this Board has determined that there is sufficient evidence to support the guilty finding, we next turn our attention to the type of discipline imposed. This Board will not set aside a Carrier's imposition of discipline unless we find its action to have been unreasonable, arbitrary, or capricious.

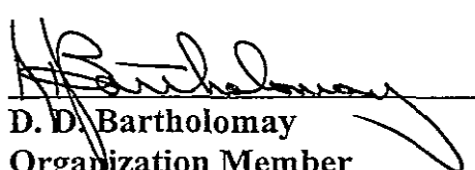
Given the serious wrongdoing on the part of the Claimant, this Board cannot find that the dismissal issued by the Carrier was unreasonable, arbitrary or capricious. Therefore, the claim will be denied.

AWARD:

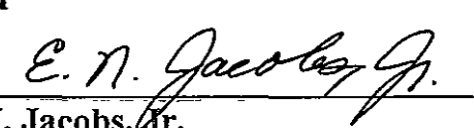
Claim denied.



PETER R. MEYERS
Neutral Member



D. D. Bartholomay
Organization Member



E. N. Jacobs, Jr.
Carrier Member

Issued at Chicago, Illinois on June 29, 1998