

PUBLIC LAW BOARD NO. 1837

Award No. 112

Parties to Dispute:

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

Statement of Claim:

1. The thirty day suspension assessed Welder-Helper E. M. Guenther for his alleged making false statements in a matter under investigation was without just and sufficient cause and in violation of the Agreement (Carrier's File MW-FTW-96-63).
2. Claimant E. M. Guenther shall now be compensated for all wage loss suffered from February 20 to March 21, 1997.

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 there is sufficient evidence in the record to support the finding that the Claimant was guilty of making false statements in a matter under

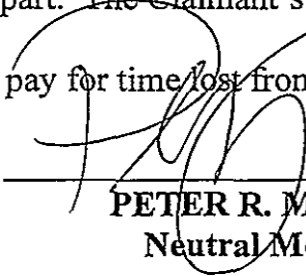
investigation. The Claimant admitted that the witness testimony that he had given during an investigation in November of 1996 was not correct. That was a serious violation of company rules.

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.

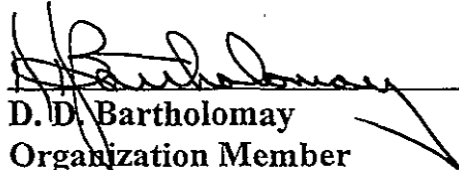
Given the Claimant's exemplary previous disciplinary record and the nature of his transgression in this particular case, this Board finds that the Claimant's thirty-day suspension shall be reduced to a ten-day suspension with pay for time lost from March 3 to 21, 1997.

AWARD:

Claim sustained in part. The Claimant's thirty-day suspension shall be reduced to a ten-day suspension with pay for time lost from March 3 to 21, 1997.



PETER R. MEYERS
Neutral Member



D. D. Bartholomay
Organization Member



E. N. Jacobs, Jr.
Carrier Member

Issued at Chicago, Illinois on June 29, 1998