

PUBLIC LAW BOARD NO. 1837

Award No. 115

Parties to Dispute:

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

Statement of Claim:

1. The thirty day suspension assessed Laborer-Truck Driver S. J. Esposito for his alleged conduct unbecoming an employee was without just and sufficient cause and in violation of the Agreement (Carrier's File MW-FTW-97-118).
2. Claimant S. J. Esposito shall now be compensated for all wage loss suffered as a result of the suspension.

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:

The record is clear that the Claimant was guilty of conduct unbecoming an employee. There was sufficient evidence that the Claimant entered Carrier property on

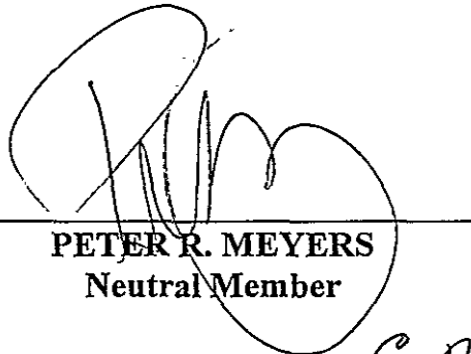
April 17, 1997, with a non-employee and obtained information and documents that belonged to the Carrier. The Claimant also participated in making a video record on the Carrier property without permission.

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.

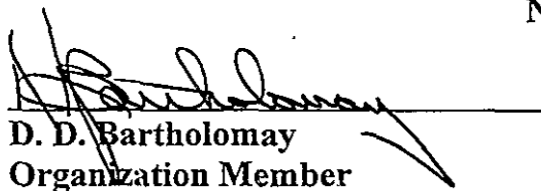
Given the serious wrongdoing on the part of the Claimant, this Board cannot find that the thirty-day suspension issued by the Carrier was unreasonable, arbitrary or capricious. Therefore, the claim will be denied.

AWARD:

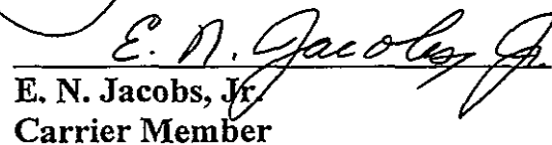
Claim denied.



PETER R. MEYERS
Neutral Member



D. D. Bartholomay
Organization Member



E. N. Jacobs, Jr.
Carrier Member

Issued at Chicago, Illinois on June 29, 1998