

PUBLIC LAW BOARD 1837

Case #15

AWARD 15

(MW-BVE-76-100)

PARTIES TO DISPUTE:

Brotherhood of Maintenance of Way Employees
vs
Norfolk and Western Railway Company

STATEMENT OF CLAIM:

1. The Carrier violated the effective agreement dated February 1, 1951, on July 2, 1976, when it unfairly and unjustly dismissed Claimant Barron Gurley.

2. Claimant shall be reinstated with seniority, vacation and all other rights unimpaired, and compensate him for all monies loss suffered by him, beginning the date he was removed from service and up to the date Claimant was returned to active service.

FINDINGS: This Board upon the whole record and all the evidence finds that:

The carrier and employee involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, as amended.

This Board had jurisdiction over the dispute involved herein.

OPINION:

A review of the record leaves little to doubt that the Claimant failed to report for work variously and/or continuously during May and June, 1976, even though being advised on three separate occasions that his continued failure to do so would result in appropriate discipline or a presumed resignation. All such communiques were conveyed by certified U. S. Mail and signed for by the Claimant as received. We find no

support for the Organization's claim that lack of receipt of a paycheck was sufficient basis to excuse either the Claimant's reporting or advising of his status. Further, we are unable to sustain as sufficient cause to set aside the Carrier's action, the fact that the charging officer also convened as hearing officer; the Claimant's actions or inactions stand on their own merit in that regard.


We find no basis to conclude other than that the Claimant was well-advised of the impending action and failed to take the necessary steps to protect his position.

AWARD:

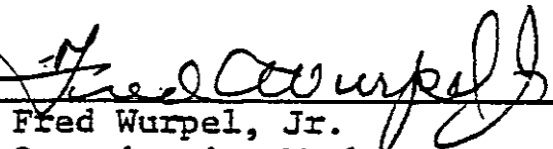
Claim is denied.



 James F. Scearce
 Neutral Member



 G. C. Edwards
 Carrier Member



 Fred Wurpel, Jr.
 Organization Member

Dated this 28th day of April, 1980 at Atlanta, Ga