

CASE #22

AWARD 22

(MW-MUN-77-43A)

(MW-MUN-77-43B)

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 May 13, 1977, by unfairly and unjustly dismissing claimants Kenneth R. Allen and W. R. McClellan.

2. Claimants be restored to service with seniority and all rights unimpaired, and payment allowed for the assigned working hours actually lost, less any earnings in the service of the Company.

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

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

This Board had jurisdiction over the dispute involved herein.

OPINION:

The record sufficiently demonstrates responsibility on the part of both Claimants, who were disciplined for engaging in an altercation. The Carrier demonstrated, by competent witnesses, that their involvement was not equal, however. The workplace is not a combat zone and the work process cannot tolerate circumstances which jeopardize the safety of those involved or cause perturbations to flow of progress.


When malice aforethought or premeditation of action is added to such circumstances, the potential results become even more grave.


We find no basis to disturb the Carrier's disposition of this matter. We find no prejudice to the rights of the Claimants by the manner in which the hearing was held. The facts of this case and particularly the adduced evidence of witnesses support the actions taken by the Carrier.

AWARD:

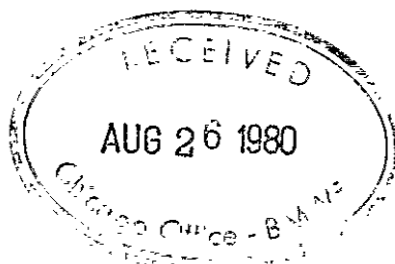
Claims are denied.


James F. Scearce
Neutral Member


G. C. Edwards
Carrier Member


Fred Wurspel, Jr.
Organization Member

Dated this 10th day of April, 1980 at Atlanta, Ga



AWD-22, 1837