

PUBLIC LAW BOARD 1837

(MW-BVE 77-80)

Case No. 38

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 November 15, 1977, when it dismissed claimant R. C. Arwood from service.
2. The dismissal of the claimant was too severe and unwarranted. The claimant now be restored to service with seniority and benefits 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 the employee involved in this dispute are respectively Carrier and employee within the meaning of the Railway Labor Act, as amended.

This Board has jurisdiction over the dispute involved herein.

OPINION:

Claimant was hired May 31, 1977, as a Laborer. During the period from July 1 to September 14, 1977, the Claimant was absent fourteen (14) days. According to the Carrier, he was issued

three (3) letters -- one each in July, August and September, 1977 -- warning that such absences would not be tolerated; the Claimant admits receipt of one on July 25, 1977, but indicates he changed residences shortly thereafter. The Claimant asserts medical problems for three of the dates of absence and car trouble for the remainder, but offered no timely proof.

According to the Organization, removal was excessive, unwarranted and not constructive discipline; the Organization argues further that the Claimant was not afforded a fair and impartial hearing.

We find no merit to the Organization's defenses and consider the Carrier's decision to remove fully justified. The Claimant admits that not only did he receive a letter warning of impending severe discipline, but that he was talked to by his supervisor in this regard.

AWARD:

Claim is denied.

James F. Searce
James F. Searce
Neutral Member

G. C. Edwards
G. C. Edwards
Carrier Member

W. E. LaRue
W. E. LaRue
Organization Member

Dated at Washington DC this 1st day of June 1981