

Award No. 27

Case No. MW-PO-77-111

Parties Brotherhood of Maintenance of Way Employees
to and
Dispute Norfolk and Western Railway Company

Statement of Claim The employees request that Claimant M. E. Rice be paid for time lost as a result of ten days suspension.

Findings The Board, after hearing upon the whole record and all evidence, finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, that this Board is duly constituted by Agreement dated March 1, 1976, that it has jurisdiction of the parties and the subject matter, and that the parties were given due notice of the hearing held.

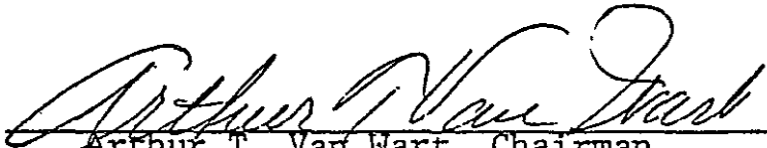
Claimant, a machine laborer, as a result of a formal investigation held, on September 9, 1977, was assessed a ten (10) day actual suspension as discipline for having used profane language towards his supervisor in the vicinity of Glen Hayes, West Virginia, on August 30, 1977.

The record reflects that Claimant was handled properly pursuant to Rule 33 - Discipline and Grievances, and that there was sufficient evidence to base a determination that Claimant had used profane language towards his supervisor. However, there was also evidence to indicate that the Supervisor had used improper language himself. In the particular circumstances we find that the discipline was excessive. Therefore, we will reduce same to five (5) days actual suspension.

Award Claim disposed of as per findings.
Order Carrier is directed to make this Award effective within thirty
(30) days of date of issuance shown below.


A. D. Arnett, Employee Member


G. C. Edwards, Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member

Issued at Wilmington, Delaware, November 26, 1979.