

PUBLIC LAW BOARD NO. 1838

Award No. 28

Case No. MW-PO-77-110

Parties Brotherhood of Maintenance of Way Employees

to and

Dispute Norfolk and Western Railway Company

Statement of Claim That the Claimant L. J. Craft be paid for all time lost, at his applicable Section Laborer's rate of pay for being unjustly removed from service for 60 days.

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 received a sixty (60) day actual suspension as a result of his acts of horseplay and his insubordination towards Foreman L. G. Jones on June 29, 1977. A formal investigation in connection therewith was held on July 29, 1977 and as a result Carrier concluded that Claimant was guilty and had violated Safety Rule 1004 and Operating Rule 427.

Safety Rule 1004 reads:

"Scuffling, horseplay, practical jokes, and all conduct of a similar nature, while on duty or on company property, is prohibited."

Operating Rule 427 provides:

"Negligence in handling Company business, sleeping on duty, willful neglect of duty, viciousness, dishonesty, insubordination, disloyalty, giving false statements or concealing facts concerning matters under investigation are sufficient cause for dismissal."

The Board finds that Claimant was properly handled in accordance with the Discipline Rule 33 - Discipline and Grievances - and that there was sufficient evidence to support the conclusion reached by Carrier. However, in the circumstances herein the discipline assessed was excessive. We find that thirty (30) days actual suspension would have been sufficient.

Award Claim disposed 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 Salem, New Jersey, December 27, 1979.