

PUBLIC LAW BOARD NO. 1838

Award No. 8

Case No. MW-RO-76-1

Parties Brotherhood of Maintenance of Way Employees

to and

Dispute Norfolk and Western Railway Company

Statement of Claim: 1. Carrier violated the effective Agreement by unfairly and unjustly suspending Claimant G. E. Thomason from service.
2. Claimant Thomason shall be compensated for the five (5) days that he was unfairly suspended.

Findings: The Board finds, after hearing upon the whole record and all evidence 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 Section Laborer for over three (3) years, was suspended from work for the week of October 6 through October 10, 1975 for his disregard of the Terminal Supervisor's letter of June 3, 1975 which read:

"Consider this as a letter of warning you for being absent without permission. A copy of this letter is being placed on your record. So that you may know the seriousness of being absent without permission, we are quoting Rule 25 of your Current MW Agreement made between your Organization and the Norfolk & Western Railway Company:

"Rule 25 ----Detained From Work:

An employee desiring to be absent from service must obtain permission from his foreman or the proper officer. In case an employee is unavoidably kept from work, he will not be discriminated against. An employee detained from work on account of sickness or for any other good cause shall notify his foreman or the proper officer as early as possible."

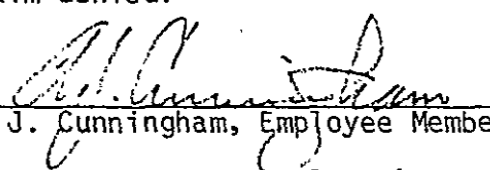
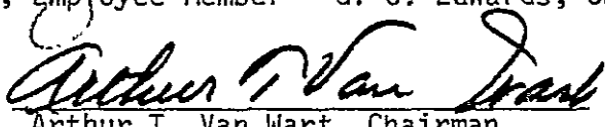
We trust you will give this letter your utmost attention so that this will not happen again. If so, we will have no alternative except to take drastic action against you."

The record reflects that Claimant was absent without permission June 23,

30, July 11, 18, 22, August 8, 14, 22, September 3, 9, 15, 23, 24, and October 2, 1975. He did call in several hours after his required reporting time on August 8, 14, September 1, 5, and 23 to give some reason for his absence. However, Carrier, in such instances, did not believe that Claimant notified, as required per Rule 25, "as early as possible."

The Board concludes that Claimant was accorded due process, that sufficient competent evidence was adduced to support Carrier's conclusion as to Claimant's failures and that the discipline imposed was reasonable.

Award: Claim denied.

 A. J. Cunningham, Employee Member	 G. C. Edwards, Carrier Member
 Arthur T. Van Wart, Chairman and Neutral Member	

Issued at Wilmington, Delaware, May 1, 1978.