

Award No. 11

Docket No. 44

ORG. File No. BUFF-N-301

Carrier File No. 2-MG-1575

Parties Brotherhood of Maintenance of Way Employees

to and

Dispute Baltimore & Ohio Railroad Company

Statement of Claim: Claim filed on behalf of Carpenter Foreman M. M. Kryniski, Buffalo Division, for removal of discipline of ten (10) days' overhead suspension administered to Mr. Kryniski following a hearing held on February 12, 1976 on charges of being absent from duty and engaging a substitute to perform his duties without permission from his supervisor on January 21, 22, 23, 26 and 27, 1976.

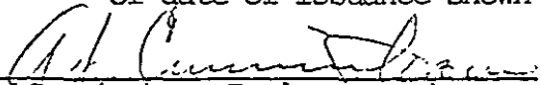
Findings: The Board finds, after hearing upon the whole record and all evidence, that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, that this Board is duly constituted by Agreement dated October 27, 1976, that it has jurisdiction of the parties and the subject matter, and that the parties were given due notice of the hearings held.

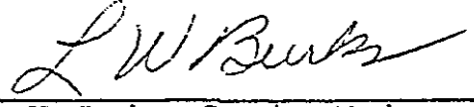
Claimant, a Carpenter Foreman with 31 years service, was given a ten (10) days overhead suspension as discipline for going on a one week vacation and engaging another carpenter to substitute as a Foreman for him.

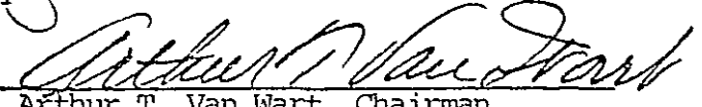
The Board finds that while Carrier was correct in its administration of Rule 804, Claimant, in following a practice, had unintentionally technically violated the Rule. Yet, holding a narrow view of the facts in this case causes a majority of the Board to conclude, that while the investigation had served a good purpose because it brought to light a bad practice, a continuance of the discipline imposed would be an abuse of discretion. Consequently, we find that the discipline be now expunged from Claimant's personal record and that the practice followed by Claimant, and others, be stopped at once.

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. J. Cunningham, Employee Member


L. W. Burks, Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member