

Award No. 5
Case No. 5

Public Law Board No. 2203

PARTIES
TO
DISPUTE:

Brotherhood of Maintenance of Way Employes
and
Consolidated Rail Corporation

STATEMENT
OF
CLAIM:

1. The discipline imposed was too harsh.
2. Carrier shall reinstate Trackman Jerry M. Taylor with seniority unimpaired.

FINDINGS:

Claimant, a young trackman with less than 20 months service, was dismissed for fighting on Company property while at work.

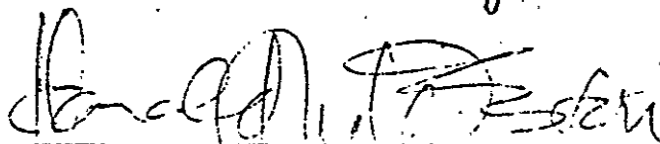
It is undisputed that he grabbed a fellow employe, Charley Drew, by the hair and threw him to the ground. Both men were immediately taken out of service but Mr. Drew was reinstated on the basis of Carrier's finding that he was innocent. Claimant's explanation was that Mr. Drew provoked him unreasonably while they were both handling their assignments.

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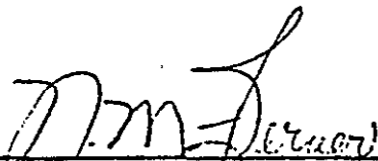
Serious disciplinary action is warranted on this record. However, we are persuaded after taking into consideration claimant's youth and a realistic question as to Mr. Drew's complete innocence of provocation that claimant should be given another chance to prove that he can be relied on to do his job in a proper manner.

AWARD: Claimant to be reinstated immediately with seniority rights unimpaired but without back pay.

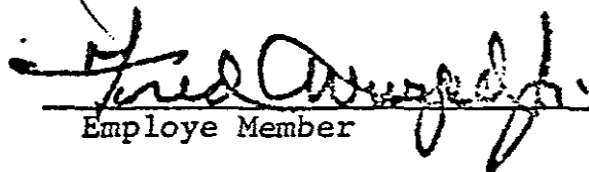
Adopted at Philadelphia, Pa., May 17, 1979.



Harold M. Weston, Chairman



Carrier Member



Employee Member