

Public Law Board No. 2630

PARTIES
TO
DISPUTE:

Brotherhood of Maintenance of Way Employes

and

Baltimore and Ohio Railroad Company

STATEMENT
OF
CLAIM:

1. The Carrier violated the Rules Agreement effective October 1, 1968, as amended, particularly Rule 48(a) when it assessed discipline of 15 days' overhead suspension on facts not substantiated in the Trial Transcript, thereby arbitrary, capricious, and discriminatory due to the Claimant's organizational relationship.
2. Claimant R. W. Trent's record be cleared of the charges brought against him on February 15, 1978.
3. Claimant R. W. Trent, Trackman, be compensated for wages lost.

FINDINGS:

Claimant, a trackman with over five years service, was administered a 15-day suspension on the ground

that he refused to comply with a direct order and attempted to persuade other employes not to comply with the track supervisor's instructions.

There is substantial credible evidence in the record that supports Carrier's findings that claimant failed to comply with Supervisor Rosier's unambiguous instructions to resume work after a lunch period and that claimant attempted to influence other trackmen to persist in that refusal. Claimant himself testified that he told Mr. Rosier that "I am not going to work if the majority of the men feel that it's raining too hard."

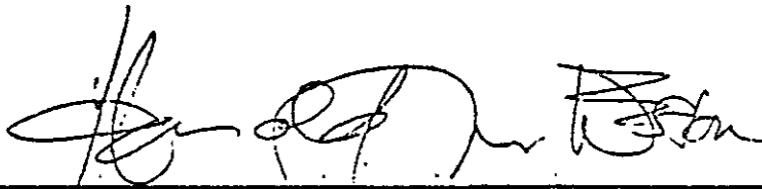
That it was management's responsibility and prerogative to decide whether or not the men should work during their assigned tour is beyond dispute. The evidence does not establish that weather conditions were sufficiently bad to constitute an unsafe or unhealthy working condition. Bare assertions, unsupported by proof, that it would be hazardous to work that rainy afternoon are far too vague and general to protect claimant from disciplinary action in this situation.

No sound basis is perceived for setting aside or reducing claimant's suspension. The charges levelled against him were sufficiently clear to apprise him of the nature, gravity, time and place of hearing and to enable him to prepare his evidence. The record disclosed no prejudicial procedural error. As a local

chairman, claimant had an obligation to help enforce the rules and avoid a resort to self-help; Carrier's decision not to discipline employes with less expertise in labor relations is not evidence of unfair disparity of discipline.

AWARD: Claim denied.

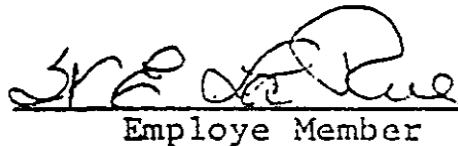
Adopted at Baltimore, Maryland, *August 15*, 1981.



Harold M. Weston, Chairman



Carrier Member



Employee Member