

Award No. ³²
Case No. 22

Public Law Board No. 2778

PARTIES
TO
DISPUTE:

The Brotherhood of Maintenance of Way Employees
and
The Baltimore and Ohio Railway Company

STATEMENT
OF
CLAIM:

Carrier violated the Schedule Agreement by assessing five days actual suspension to Trackman Thomas W. Albright. Claimant Albright should be reimbursed for the time lost plus any overtime worked by the gang during the period of discipline and his record should be cleared of all charges.

FINDINGS:

The five-day suspension was administered to claimant on the basis of Carrier's findings that he was involved in a confrontation with other trackmen in the rear of their truck while returning to the job site during their lunch period.

There is no question but that trackmen were involved in an altercation in the back of the truck. There is no evidence, however, that claimant started the fight and the testimony is not sufficiently detailed and clear to provide a basis for concluding that he was responsible for exacerbating the situation. There is some evidence that claimant attempted to stop the fight

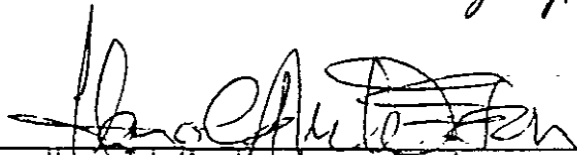
and that his actions in that regard may have been misinterpreted.
He suffered an injury to his finger as a result of the incident.

At any rate, we are not satisfied that this record supports Carrier's findings that claimant was at fault and merited a five-day loss of pay for the affair. The claim will be sustained. _

AWARD:

Claim sustained. To be effective within five ³⁰ ~~five~~ ^{days} ~~days~~.

Adopted at Baltimore, Md. July 13, 1984.



Harold M. Weston, Chairman



Carrier Member



Employee Member