

PUBLIC LAW BOARD NO. 3845

PARTIES TO THE DISPUTE

Brotherhood of Maintenance of
Way Employees

and

Norfolk and Western Railway
Company (Lake Region)

Case No. 3
Award No. 3

STATEMENT OF CLAIM

"Claim of the System Committee of the Brotherhood that:

- (1) The fifteen (15) day suspension assessed Roosevelt Boyd for alleged altercation was without just and sufficient cause. [Organization File: MW-CGO-76-9].
- (2) The claimant's record shall now be cleared of all charges and he shall be compensated for all wage loss suffered".

OPINION OF THE BOARD

On August 23, 1976, Claimant's supervisor, Foreman J. Johnson, reported that he had been physically assaulted by Claimant. Division Engineer Gonzalez drove to the scene of the alleged assault at the section tool house in Hobart, Indiana, and, after conversing with all present, removed Claimant from service pending an investigation. The investigation was held

on October 26, 1976 after which Claimant was assessed 15 days actual suspension.

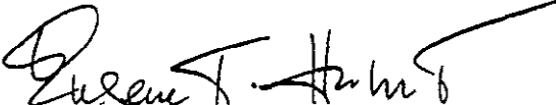
The testimony of Division Engineer Gonzalez corroborated Foreman Johnson's version of the altercation.

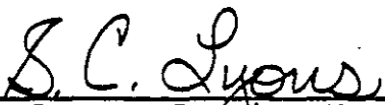
- Q. Mr. Gonzalez, during the course of your investigation, did you notice any physical markings or broken glasses or torn clothing on Mr. Johnson?
- A. Mr. Johnson's lip at the corner was slightly open. He proceeded to show me his glasses, that one arm was bent out of shape, and then he opened the jacket he was wearing and showed me the shirt pocket, which was torn off.


There is substantial credible evidence in the record that Claimant attacked his supervisor. The hearing in this matter was both fair and impartial and the requirements of due process were observed. A fifteen day suspension is neither unreasonable nor excessive discipline under the circumstances of this case.

AWARD

Claim denied.


E.T. Herbert, Neutral Member


S.C. Lyons, Carrier Member


H.G. Harper, Employee Member

June 25, 1985