

PUBLIC LAW BOARD NO. 4338

PARTIES) UNION PACIFIC RAILROAD COMPANY
TO)
DISPUTE) BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

STATEMENT OF CLAIM: Claim that the discipline of ten working days suspension imposed on System Gang employee M. J. Tuel for alleged violation of Rules 607(1), 607(6) and 608 was arbitrary, capricious and unwarranted on the basis of unproven charges and in violation of the Agreement. That claimant's record shall be cleared of the discipline and he shall be compensated for wages lost.

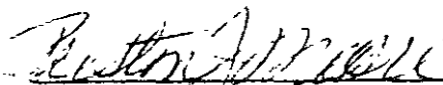
FINDINGS: This Public Law Board No. 4338 finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, and that this Board has jurisdiction.


In this dispute the claimant is M. J. Tuel who was the other employee involved in the incident in Award No. 10 of this Board. An investigation was held, and pursuant to the investigation the claimant was assessed ten days actual suspension.

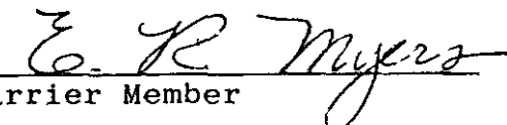
It is unnecessary to review all of the testimony of record. The evidence establishes that the claimant grabbed Mr. Orefice by the coat which resulted in that employee spinning around and sustaining an injury to his neck. Under these circumstances there is no justification to set the discipline aside.

It is recognized that the claimant may have believed he or his family was being threatened by Mr. Orefice, but nevertheless he had no right to grab Mr. Orefice by the collar of his coat.

AWARD: Claim denied.


Preston J. Moore, Chairman


Union Member


Carrier Member

Dated: November 10, 1987