

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

v.

BURLINGTON NORTHERN RAILROAD

STATEMENT OF CLAIM

1. The thirty (30) days of suspension imposed upon Group 5 Machine Operator G. Slack for alleged violation of Rule 563 was unwarranted, without just and sufficient cause and an abuse of the Carrier's discretion (System File REG-SP-118C).
2. Vice President-General Manager W. W. Francis failed to disallow the claim (appealed to him under date of July 19, 1984) as contractually stipulated within Rule 42.
3. The Claimant's record shall be cleared of the charge leveled against him and he shall be compensated for all wage loss suffered.

FINDINGS

That Mr. George Slack, the Claimant, participated in a fist fight on Carrier property is not in dispute. The record is also clear that the other person initiated the fight over a period of time by using racial epithets. It is also evident from the record that the other person did not break away from the confrontation, but rather followed Mr. Slack in a provocative and abusive manner. Eventually, Mr. Slack could not continue to endure the insults, and the fight occurred. It should also be noted that it was Mr. Slack who brought the fight to his supervisor's attention the next day.

Given that Mr. Slack was the recipient of unprovoked aggression and racial abuse, and that he attempted to remove himself from the situation, the thirty (30) days of suspension is excessive and unreasonable discipline. In place of the suspension, Mr. Slack is to be issued a written reprimand for fighting on Carrier property.

AWARD

The thirty (30) day suspension shall be removed from Mr. Slack's record and he shall be compensated for all wages lost. Mr. Slack shall be issued a written reprimand for fighting on Carrier property.

Rod Hill

Ronald L. Miller  
Chairman and Neutral Member

Maxine M. Timberman

Maxine M. Timberman  
Carrier Member

Karl P. Knutsen

Karl P. Knutsen  
Organization Member

3-31-88

Date