

PARTIES TO DISPUTE:  
(Brotherhood of Maintenance of Way Employees  
(The Burlington Northern Santa Fe Railroad

STATEMENT OF CLAIM:

Carrier's decision to issue Central Region Maintenance of Way employee R. L. Quattlebaum a deferred suspension of 30 days unjust.

Accordingly, Carrier should now be required to expunge the suspension from the claimant's record. (Files 02-20-AC/130-13A2-961)

FINDINGS

Upon the whole record and all the evidence, the Board finds that the parties herein are carrier and employee within the meaning of the Railway Labor Act, as amended. Further, the Board is duly constituted by Agreement, has jurisdiction of the Parties and of the subject matter, and the Parties to this dispute were given due notice of the hearing thereon.

Claimant was scheduled for an Investigation on January 25, 1996, for the alleged act of exhibiting quarrelsome behavior towards a Foreman.

Claimant is a machine operator assigned to work wherever needed within the limits of his seniority. He was not working under the supervision of the Foreman with whom he is charged for being disrespectful. The Foreman asked Claimant what he had done all day, then supplied his own answer by saying "ride around all day."

Claimant at first told the Foreman why he did not complete his work assignment that day, then he responded to the "riding around all day" by saying "what I do is none of your \*\*\* business."

The Foreman overreacted. In the words of Claimant, he (the Foreman) went ballistic. The

Foreman threw his hard hat, and invited Claimant outside several times to settle the score. Claimant, as supported by witnesses, remained seated while the Foreman carried on. After the Foreman left, Claimant reported this incident.

Both parties were offered identical assessments of discipline for participating in the quarrel if they would waive the Investigation. The Foreman accepted. Claimant did not.

A review of the verbal exchange establishes that the Foreman overreacted. The retort Claimant made to the Foreman's inappropriately asked question was just as inappropriate, but clearly the Foreman was the aggressor in this instance. The Board does recognize it "takes two to tango," but the Foreman's reaction to Claimant's response was way out of line.

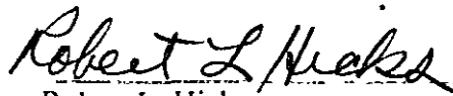
Under the circumstances, the discipline assessed is reduced to a reprimand.

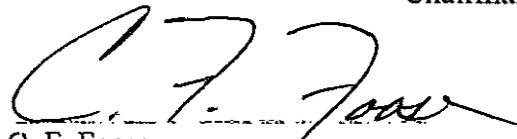
AWARD


Claim sustained in accordance with the Findings..

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

  
Robert L. Hicks  
Chairman and Neutral Member

  
C. F. Foose  
Labor Member

  
Greg Griffin  
Carrier Member

Dated