

NATIONAL MEDIATION BOARD, ADMINISTRATOR
SPECIAL BOARD OF ADJUSTMENT NO. 957

In the Matter of the Arbitration

-between-

Brotherhood of Maintenance of
Way Employees

OPINION AND AWARD
Award No. 272

-and-

Southeastern Pennsylvania
Transportation Authority

In accordance with the agreement In effect between the
above-named parties, the Undersigned was designated as the
~~Chairman and Neutral Member of the SEPTA-BMWE Public Law Board~~
(the Board) to hear and decide the following Claim:

1. The Level 1 discipline imposed upon B&B Structural Welder J. Graham, including the suspension served from May 28, 2005 through and including June 9, 2005, for allegedly failing to follow a directive on May 28, 2005 was excessive, unjust, unwarranted and based on an unproven charge (SEPTA Grievance 05-038-F11).
2. As a consequence of the Carrier's failure to meet its burden of proving the charges leveled against the Claimant, he shall now be allowed compensation for all wage loss suffered and all reference to this incident shall be removed from his record.

A hearing was held in Philadelphia, Pennsylvania on June 26, 2007 at which time the representatives of the parties appeared. All concerned were afforded a full opportunity to offer evidence and argument and to examine and cross-examine witnesses consistent with the relevant procedures that exist between the parties. The Board met in Executive Session after the hearing.

FINDINGS OF FACT AND OPINION OF THE BOARD

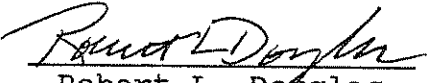
The record indicates that the present dispute arose due to

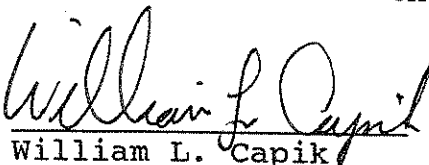
an incident involving an alleged work assignment to the Claimant on May 28, 2005. The Carrier terminated the Claimant. The Organization challenged the discipline. The Carrier asserted that the discipline did not violate the Agreement as alleged by the Organization. During the preliminary steps of the grievance procedure, the Carrier reduced the termination to a suspension based on the good work record of the Claimant. The parties failed to resolve the remaining dispute about the suspension. The dispute proceeded to arbitration for a final and binding determination.

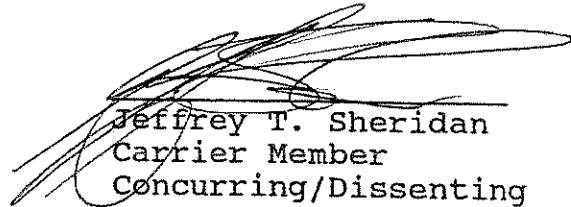
During the hearing the parties indicated that they had agreed to settle the instant dispute. As a result, the Award shall indicate that the Claim is dismissed.

Accordingly, the Undersigned, duly designated as the Chairman and Neutral Member of the SEPTA-BMWE Public Law Board and having heard the proofs and allegations of the above-named parties, makes the following AWARD:

The Claim is dismissed in accordance with the Opinion of the Board.


Robert L. Douglas
Chairman and Neutral Member


William L. Capik
Employee Member
Concurring/Dissenting


Jeffrey T. Sheridan
Carrier Member
Concurring/Dissenting

DATED: 9/4/07