

SPECIAL BOARD OF ADJUSTMENT NO. 541

PARTIES TO DISPUTE:

Brotherhood of Maintenance of Way Employees
Erie Lackawanna Railway Company

STATEMENT OF CLAIM:

1. The Carrier violated the effective Agreement when Work Train Foreman Kelley B. Jackson was assessed five (5) days actual suspension as discipline, not justified, account of alleged violation of Rule 0-2 of Carrier's General Rules, on August 29, 1967.
2. Claimant, Work Train Foreman K. B. Jackson be now compensated for the time lost and his record be cleared, because of the Carrier's violation of the Agreement referred to in Part 1 of this Claim.

FINDINGS:

This dispute centers on a five day suspension administered to claimant, a work train foreman, for insubordinate and quarrelsome conduct.

Considering the record in its entirety, including evidence that when he was asked by Assistant Track Supervisor Pearson why he had not unloaded a car as instructed, he replied that he had forgotten more than Pearson ever knew and was quarrelsome, we find no basis for substituting our judgment for that of Carrier that a five-day suspension was warranted. Claimant's testimony was not persuasive since he even denied that any quarrel took place, although not only Pearson but two of claimant's fellow-laborers testified that an argument, whatever its merits, did occur between claimant and Mr. Pearson.

AWARD: Claim denied.

Adopted at Cleveland, Ohio, October 16, 1974.

/s/ H. M. Weston
H. M. Weston, Chairman

/s/ R. A. Carroll
R. A. Carroll, Carrier Member

Facts in Award are erroneous
/s/ A. J. Cunningham - Dissenting
A. J. Cunningham, Employee Member