

SPECIAL BOARD OF ADJUSTMENT NO. 936

Parties  
to the  
Dispute

:  
: Brotherhood of Maintenance of Way Employes :  
:  
: vs. :  
:  
: Norfolk and Western Railway Company :  
: (Lake Region) :  
:

Case No. 1  
Award No. 1

STATEMENT OF CLAIM

- (1) The dismissal of Laborer-Truck Driver F. L. Wright for alleged unauthorized possession of Company materials was without just and sufficient cause and excessive. [File No. MW-BVE-77-70]
- (2) Claimant F. L. Wright shall be allowed the remedy prescribed in Rule 22(e).

OPINION OF THE BOARD

Claimant F. L. Wright was employed as a Laborer-Truck Driver in the Maintenance of Way Department in Cleveland, Ohio. Claimant at the time of the incident involved here had 24 years of service.

On March 28, 1980, he was notified that he should appear at a formal investigation to determine his responsibility in connection with an unauthorized possession of Company material that he had intended to sell to a scrap dealer. A hearing into the matter was held. The record of that hearing is a part of the record before

this Board.

A review of the record reveals that Claimant was afforded a full and fair hearing and that all contractual rights of due process were adhered to. It also reveals that Claimant was guilty as charged and that he did have in his possession material belonging to Carrier. Claimant admitted that he intended to sell the scrap brake shoes. He did not, however, state that he intended to sell any of the other material or tools in his possession.

This Board does not condone any employe stealing from Carrier. Stealing in most cases is a dischargeable offense. Based on the record before us in this case and Claimant's 24 years of service, however, it is not this Board's opinion that Claimant should be permanently discharged from Carrier's service. Claimant has been out of service for four years at this point. That four years' suspension is sufficient punishment to impress Claimant and his fellow employes that unauthorized possession of Carrier property will not be tolerated.

AWARD

Claimant shall be reinstated to his former position with seniority intact, but without pay for lost time or benefits. This award shall be implemented within 30 days of the date signed by this Board.

R. E. Dennis  
R. E. Dennis, Neutral Member

S. C. Lyons - Carrier Dissents  
S. C. Lyons, Carrier Member to the Award

H. G. Harper  
H. G. Harper, Employee Member

MAY 10 1984