

SPECIAL BOARD OF ADJUSTMENT NO. 936

Parties
to the
Dispute

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

Case No. 4
Award No. 4

STATEMENT OF CLAIM

- (1) The dismissal of Assistant Foreman D. R. Graves for allegedly threatening Roadmaster Blanton was without just and sufficient cause. [File No. MW-MUN-80-62].
- (2) The Agreement was violated when the Carrier failed to timely render a decision following the investigation held on September 22, 1980.
- (3) The Claimant shall be allowed the remedy prescribed in Rule 22(e).

OPINION OF THE BOARD

Claimant D. R. Graves was employed as an Assistant Foreman on Section 16 at Indianapolis, Indiana. He was charged on September 9, 1980, with threatening his Supervisor on September 8, 1980. He was instructed to report for an investigation into the matter on September 22, 1980. Carrier did not, however, render a decision in the instant case, since it had dismissed Claimant from duty on

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another charge. The Organization contends that Carrier's failure to render a decision in the instant case makes the claim sustainable as presented, since Rule 22(a) of the parties' Agreement clearly requires that a decision be rendered by Carrier within 15 days of completion of the investigation.

Carrier contends that there is no need to render a decision in the instant case, since Claimant was dismissed in what it refers to as a companion case (Case No. 5) that is before this Board. It would be ridiculous to dismiss Claimant twice.

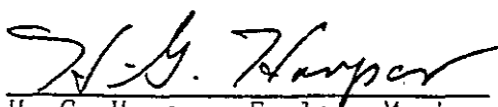
Carrier in this instance has erred. Regardless of the situation, Carrier should have rendered a decision in this case and its failure to do so is a serious violation of the Agreement. In this instance, however, Carrier's action does not have a negative impact on it or on Claimant, since this Board has denied the Organization's claim in regard to Claimant Grave in Case No. 5.

AWARD

This claim is dismissed as moot.


R. E. Dennis, Neutral Member


S. C. Lyons, Carrier Member


H. G. Harper, Employee Member

MAY 10 1984