

Case No. 8
Award No. 8

PUBLIC LAW BOARD NO. 2786

Parties Railroad Yardmasters of America
to and
Dispute Consolidated Rail Corporation

Statement
of Claim: Appeal from discipline of disqualification as a
Yardmaster assessed F. C. Wager for the following
offense:

Your failure to comply with verbal instructions
issued to you by Trainmaster J. C. Kiger at
approximately 10:15 a.m., January 4, 1980, wherein
you failed to move the Framingham MP 375899, from
track #7 at South Yard as instructed.

Findings: The Board, after hearing upon the whole record and
all evidence, finds that the parties herein are Carrier and
Employee within the meaning of the Railway Labor Act, as amended,
that this Board is duly constituted by Agreement dated August 13,
1980, that it has jurisdiction of the parties and the subject
matter, and that the parties were given due notice of the hearing
held.


Claimant was charged with failure to comply with Train-
master's instructions to switch a car out of track 7 in the South
Yard for movement on a through train.

A review of the transcript of the investigation reveals that
the Claimant was in fact guilty of the offense charged when he
failed to follow the instructions of Trainmaster Kiger and place
car MP375899 on a train. On the merits in this matter the
Carrier must prevail.

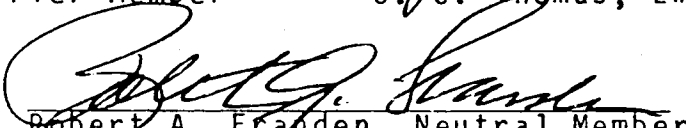
We do, however, question the discipline that was assessed in the instant matter. It is the general rule that discipline once assessed will not be disturbed if the finding of guilt is supported by evidence of probative value in the absence of the discipline being excessive. We believe that to be the case here. In the instant matter we have a Yardmaster with 32 years of service, 25 of which have been served as a Yardmaster. A permanent disqualification for the offense involved herein certainly appears to be excessive. We hold that the appropriate discipline would be a disqualification for that period of time from the date of the Claimant's disqualification until a date not to exceed 30 days from the date of this Award when the Claimant is to be reinstated as a Yardmaster by the Carrier.

AWARD: Claim sustained in part and denied in part in accordance with the opinion set out above.

ORDER: Carrier is directed to make this Award within thirty (30) days of date of issuance shown below.


G. R. Welsh, Carrier Member


J. C. Thomas, Employee Member


Robert A. Franden, Neutral Member

Issued at Philadelphia, Pennsylvania, June 30, 1982.