

NATIONAL MEDIATION BOARD
PUBLIC LAW BOARD NO. 5332

Parties to Dispute:

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS

-and-

NORFOLK SOUTHERN RAILWAY
COMPANY

AWARD

Case No. 152

Claimant K. K. Ledbetter

STATEMENT OF CLAIM:

"Claim on behalf of Electrician K. K. Ledbetter for removal of 45 days actual suspension and to be made whole."

FINDINGS:

The Board finds that the parties herein are Carrier and Employee as defined by the Railway Labor Act, as amended; that the Board has jurisdiction over this dispute; and that due notice of the hearing thereon has been given to the parties.

Mr. Ledbetter, Claimant in this dispute, was directed to attend a formal investigation to be held on March 12, 2015, to address charges of insubordination and marking off under false pretenses. Following its review of the record developed at that hearing, Carrier found Claimant guilty of the first of those two charges and assessed a 45-day actual suspension on March 20, 2015. The Organization took timely exception to that action and when the dispute remained unsettled after handling in the usual manner on the property it advanced the claim to this Board for final adjudication.

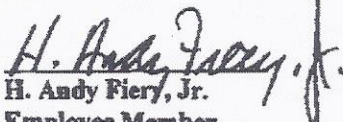
The record of case handling submitted by the parties, including transcript and exhibits from the Claimant's formal hearing, inform us that Claimant was a relatively short term employee and serving as a Student Electrician at Carrier's facility at Birmingham, Alabama when the events triggering the discipline occurred. Succinctly, on February 5, 2015, during the first shift safety meeting in the Locomotive Shop he was instructed twice by two different Carrier officials to wash locomotives due to a heavy workload of machinist

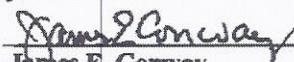
work. Following the meeting he approached Working Gang Leader Headen and stated that he could not get wet because he had a sinus infection. He was instructed again to work his shift washing locomotives. Claimant then reported immediately to the office of Senior General Foreman Charlie Chapman and announced that he was up for performing any task except washing locomotives. When again directed to report to the wash rack he indicated that he wasn't feeling well and walked off the job. In subsequent phone conversation with the grievant he then informed Chapman that he could do any task assigned, including repairing locomotives in the rain, but could not wash locomotives. Assistant Shop Manager Ryan McLain testified that on the morning of February 5 he walked back to the employee locker room after being advised that Claimant had basically refused an assignment. According to McLain he asked the Claimant if he had reported to work "just to mark off sick," and Claimant replied, "Yes." McLain then asked "if he was sure it didn't have anything to do with washing locomotive," and Claimant "looked at me and said, yeah, I think it's ridiculous that you want me to wash locomotives when I can be fixin' em..."

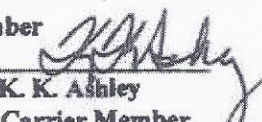
The Organization argues vigorously that Carrier has failed to carry its burden of proof in this instance. In light of developments occurring subsequent to the assessment of the discipline at issue, however, the Board concludes it is not required to reach the merits of the dispute. Under the circumstances presented, the matter will be dismissed and is barred from further consideration.

A W A R D

The Claim is dismissed with prejudice.


H. Andy Fiery, Jr.
Employee Member



James E. Conway
Chairman and Neutral Member


K. K. Ashley
Carrier Member

Dated: September 29, 2016

Withdrawal of Labor Claim/Grievance
(Carrier Number EW--BHAM-15-02) by Kevin Ledbetter

To Whom it May Concern, I hereby withdraw my labor claim/grievance (Carrier Number EW-BHAM-15-02) and direct that no further action be taken by any representative acting on my behalf, in connection with my labor claim/grievance. I understand that this withdrawal precludes me or any representative acting on my behalf from appealing this discipline under a collective bargaining agreement.


Kevin Ledbetter

0387037
Employee Identification Number

23 JUN 2016
Date

Exhibit A