**Award No. 1408**
**Docket No. 1329**
**2-IC-CM-'50**

# NATIONAL RAILROAD ADJUSTMENT BOARD
## SECOND DIVISION

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## PARTIES TO DISPUTE:

### SYSTEM FEDERATION No. 99, RAILWAY EMPLOYES' DEPARTMENT, A. F. of L. (Carmen)

### ILLINOIS CENTRAL RAILROAD COMPANY

DISPUTE: Claim of Employes: 1. That under the current agreement Car Inspector C. R. Satterfield was unjustly suspended on October 1 and unjustly dismissed from the service on October 18, 1949.

2. That accordingly the carrier be ordered to reinstate this employe to all service rights with pay for all time lost since October 1, 1949.

EMPLOYES' STATEMENT OF FACTS: C. R. Satterfield, referred to as the claimant, was regularly employed by the carrier at East St. Louis, Illinois, as a car inspector on the third shift from 11:30 P.M. to 7:30 A.M., Friday through Tuesday, with a seniority date as of October 4, 1927.

Under date of October 1, 1949, Mr. E. G. Bishop, general car foreman, addressed the claimant the following letter:

> "You are hereby notified to appear at the office of the General Foreman at East St. Louis Roundhouse at 1:00 P.M., Wednesday, October 5th, 1949, for investigation in connection with your continued absence from work without permission. This advance notice is given affording you an opportunity to secure the presence of necessary witnesses, and that you may arrange to be there represented by the authorized committee. Pending the result of the investigation you are suspended from service with this Company."

The claimant and his representative appeared at the above scheduled investigation but objected to the unfair procedure pursued by General Car Foreman Bishop on the ground the claimant had not been apprised of any precise charge that could be reasonably or intelligently dealt with by them. However, upon conclusion of the discussion, the claimant was instructed to remain on suspension and thirteen (13) days from date thereof the claimant was dismissed from the service. This is confirmed by letter dated October 18, 1949, which reads:

"Mr. C. R. Satterfield
2701 Bond Avenue,
East St. Louis, Illinois

Dear Sir:

For your continued absence from work without permission you are dismissed from the service of this company.

Yours truly,

/s/ E. G. Bishop
General Car Foreman."

tion of the provisions of Rule 17 of the parties' agreement effective July 1, 1936.

In disciplinary actions it is not only proper, but essential in the interests of justice, to take into consideration the employes' past record when, after the employe has been found guilty of the charges made against him, discipline is being imposed. This for the reason that what might be just and fair to impose upon an employe whose past record has been good might, and probably would be, entirely inadequate for an employe whose past record has been bad. It should be understood that such past record should in no way be considered in determining the guilt or innocence of the party as to the charges for which he is being tried.

In view of claimant's past record, considering the nature of the charge of which she has here been found guilty, we do not find the discipline imposed to be either unreasonable, excessive or arbitrary."

In view of claimant Satterfield's past record, the discipline assessed was not unreasonable, excessive or arbitrary and the brotherhood's claim should be denied.

Summarily, the record definitely shows that Mr. Satterfield neither had permission to be absent nor furnished any evidence or proof that he was ill or unable to work; furthermore, his representative not only approved his action in advising him not to answer questions at the investigation, but he also failed to explain why he was absent from his regular assignment. Mr. Satterfield had an important assignment on the second trick of a character necessary to be filled to avoid train delays, added expense and dissatisfied patrons, and since he could not be relied upon to fulfill his assignment, the discipline was justified.

FINDINGS: The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carier or carriers and the employe or employes involved in this dispute are respectively carrier and employe within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

The parties to said dispute were given due notice of hearing thereon.

After a review of the record, and without prejudice to the position of either party in other or future cases, the Division holds that Car Inspector C. R. Satterfield should be reinstated with seniority rights unimpaired, but without pay for time lost.

AWARD

Car Inspector C. R. Satterfield shall be reinstated with seniority rights unimpaired. Claim for compensation dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Dorothy T. Fountaine
Acting Executive Secretary

Dated at Chicago, Illinois this 3rd day of August, 1950.