

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22113
Docket Number MW-22184

Rolf Valtin, Referee

(Brotherhood of Maintenance of Way **Employees**
PARTIES TO DISPUTE: (
(Illinois Central Gulf Railroad

STATEMENT OF CLAIM: "Claim of the System **Committee** of the Brotherhood
that:

(1) The dismissal of **Trackman J. L. Earnest** for alleged violation of Rule '**P**' was without just and sufficient cause and in violation of the Agreement (System File T-203-T-76/134-296-512 Spl.. Case No. 1050 **MofW**).

(2) **Trackman J. L. Earnest** be reinstated with **seniority**, vacation and all other **rights unimpaired**, and reimbursement be **made** for all wage loss suffered."

OPINION OF BOARD: The claimant, a **Trackman** with nearly 5 **years** of service with the Carrier, was discharged for leaving work early (less than half way through his shift) without permission from his foreman -- and, indeed, on being told by his **foreman** that he **could not** be spared on the particular day. We think the evidence clearly shows the **claimant** to have been guilty as charged. Moreover, judging by his past record, the claimant is an **employee** with a propensity for irresponsible absenteeism.

Nevertheless, given the fact that the offense which the claimant here **committed**, though obviously wrongful, is not of a capital nature, and given the fact that nearly 5 years of service with one and the same employer represents a rather significant investment in a working man's life, we have concluded that the appropriate result is to give the **claimant** one more chance via corrective discipline. We are directing his reinstatement without impairment of seniority rights, but also without reimbursement for the wages lost. The claimant must understand that he cannot expect to survive as an employee of the Carrier if he does not mend his ways.

FINDINGS: The Third Division of the **Adjustment** Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

That the Carrier and the Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the **Adjustment** Board has jurisdiction over the dispute involved herein; and

That the discipline was **excessive**.

A W A R D

Claim sustained in accordance with **Opinion** and Findings.

NATIONAL RAILROAD **ADJUSTMENT** BOARD
By Order of Third Division

ATTEST:

A. W. Paulose
Executive Secretary

Dated at Chicago, Illinois, this 16th day of June **1978**.