

NATIONAL RAILROAD **ADJUSTMENT** BOARD

THIRD DIVISION

Award Number **22362**  
Docket Number M-22450

William **M. Edgett**, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way **Employees**  
(The Baltimore and Ohio Railroad Company

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

(1) The dismissal of **Trackman** Perry L. Price was without just and sufficient cause; was grossly disproportionate to the offense with which charged; was an arbitrary and capricious exercise of discretion by the Carrier **and**, as a consequence of the foregoing

(2) The claimant shall be restored to service with seniority, vacation and all other rights unimpaired and he shall be **reimbursed** for monetary loss **suffered** as stipulated within Rule 48(e) **/System** File BALT-E-10912 **MG-1708/**."

OPINION OF BOARD: Claimant was **dismissed** for excessive absence. While he had been warned and counseled that he was required **to** correct his unsatisfactory attendance **record**, he had not received other disciplinary measures prior to his dismissal. |

The Board finds that **given** all the facts and circumstances of this case the discipline imposed by Carrier was excessive. Claimant should be restored **to** Carrier's service, **but** without pay for time lost. 2

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

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That claimant should be **reinstated**.

A W A R D

Carrier is **directed** to reinstate claimant with full seniority,  
but **without** pay for time lost.

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

ATTEST: *A.W. Pauls*  
Executive Secretary

Dated at Chicago, Illinois, this 30th day of March 1979.

