

Award No. 18911
Docket No. CL-19200

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Paul C. Dugan, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY, AIRLINE AND STEAMSHIP
CLERKS, FREIGHT HANDLERS, EXPRESS AND
STATION EMPLOYES**

ILLINOIS CENTRAL RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6902) that:

(a) The Carrier violated the Agreement between the parties when on January 30, 1969, it dismissed K. R. Mellendorf from the service following an investigation on January 24, 1969, and:

(b) Carrier shall now restore Mr. Mellendorf to his former position with seniority and all other rights unimpaired and with pay for all time lost.

OPINION OF BOARD: Claimant occupied an appointive position of Materials Supervisor, Markham Locomotive Warehouse, in which capacity he was responsible for the ordering, receiving and disbursing of materials and supplies, which included responsibility for receipt of diesel fuel oil at Markham Locomotive and Harvey, Illinois. Following an investigation conducted on January 24, 1969, Claimant was notified on January 30, 1969:

"Facts and information revealed at the investigation prove that you failed to perform your duties when you did not responsibly supervise the check of Diesel Fuel Oil delivered at Harvey, Illinois, and Markham Locomotive.

Due to your failure to perform your duties, you are dismissed from the service of the company. Please arrange to return all company material promptly.

Copy of transcript in connection with the investigation attached."

The Board has carefully reviewed the entire record in the case. We find that none of Claimant's substantive procedural rights were violated. There was substantial evidence to show that he did not properly perform his duties. Discipline was warranted, but permanent dismissal is excessive. We will award that Claimant be restored to his former seniority standing with the right to place himself on any position available to him in the exercise of his seniority,

but without pay for the time lost. The Carrier shall tender offer of reinstatement on this basis within thirty days from date of this award.

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 permanent dismissal is excessive.

AWARD

Claim sustained to the extent indicated in Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of **THIRD DIVISION**

ATTEST: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 23rd day of December, 1971.