

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19229
Docket Number MW-19506

Arthur W. Devine, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(The Illinois Central Railroad Company

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

(1) The dismissal of Motor Car Repairman C. R. Huting for "working on items, not the property of the Illinois Central, during working hours at the Waterloo Motor Car Shop during the week of September 21, 1970" was improper, without just and sufficient cause and wholly disproportionate to the offense with which he was charged (System File Ia-25-T-71/Case No. 757 MofW).

(2) Motor Car Repairman C. R. Huting be reinstated with seniority, vacation and all other rights unimpaired and that he be compensated for all wage loss suffered in accordance with Rule 25(i).

OPINION OF BOARD: This is a discipline case involving the dismissal from Carrier's service of Motor Car Repairman C. R. Huting for working on items not the property of the Carrier during working hours at the Waterloo Motor Car Shop during the week of September 21, 1970.

The Board has carefully reviewed the entire record in the case, including the transcript of the investigation conducted on October 2, 1970. We find that none of Claimant's substantive procedural rights were violated. There was substantial evidence in the investigation to support the charge. However, in view of Claimant's years of service with the Carrier, over twenty-two years, with no record of prior discipline being administered, the Board finds that permanent dismissal is excessive. We will award that Claimant be reinstated with seniority, vacation and other rights unimpaired, but that he not be allowed compensation for time out of service.

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

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

That the discipline imposed was excessive.

A W A R D

Claim sustained to the extent indicated in Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

E. A. Killen
Executive Secretary

Dated at Chicago, Illinois, this 25th day of May 1972.