

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22113
Docket Number MW-22184

Rolf Valtin, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(
(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 Employes involved in this dispute are respectively Carrier and Employes 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. Paulos
Executive Secretary

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