

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22362  
Docket Number MW-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-109/2 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 Employee involved in this dispute are respectively Carrier and Employee 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

Award Number 22362  
Docket Number MW-22450

Page 2

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.

