

Award No. 12

Case No. 4
Docket No. MW-1092

Parties Brotherhood of Maintenance of Way Employees

to and

Dispute Illinois Central Gulf Railroad

Statement of Claim 1. Carrier violated the effective Agreement on January 1, 1977, by unfairly and unjustly suspending Trackman John Augillard, Jr. from service for three weeks.
2. Claimant J. Augillard, Jr., shall be compensated for all time lost, and shall have his seniority and other rights returned unimpaired.

Findings The Board, after hearing upon the whole record and all evidence, finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, that this Board is duly constituted by Agreement dated January 23, 1978, that it has jurisdiction of the parties and the subject matter, and that the parties were given due notice of the hearing held.

Claimant Trackman, on December 31, 1976, was regularly assigned as such at Mays Yard, New Orleans, Louisiana, on the 7:00 AM to 3:00 PM shift. Claimant did not report for work on or before 7:00 AM on December 31, 1976. He did not receive permission to be absent, and he did not inform anyone that he would be absent until about 9:00 AM, some two hours after his work shift commenced, at which time Claimant contacted someone to advise that he had been in an automobile accident and would not be in to work that day.

Claimant was notified to attend a formal investigation on January 17, 1977 on the charge of his failure to notify his Supervisor, either before or at work time that he would be unable to work that day. As a result of that investigation Carrier concluded that Claimant was guilty as charged. He was suspended from the service of the company for three weeks as discipline therefor.

The Board finds that it was not error for Carrier to have entered Claimant's past record into the hearing for the purpose as stated therein, to show that

such use thereof was solely limited to a determination of the degree of penalty, if any, which would be assessed if Claimant was found guilty.

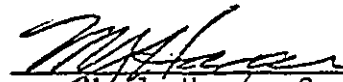
The Board finds that there was sufficient evidence to support Carrier's conclusion. It was admitted by Claimant that he did not notify his Supervisor before or at work time. This was the second such incident within two days of the same problem. In such limited circumstances the Board finds that the discipline assessed was not unreasonable. Third Division Award 14272 (Ives) points out that:

"unauthorized absences from duty, if proven, are serious offenses and often result in dismissal from service. Punishment can not be said to be arbitrary, capricious or unsupported by the record and in accordance with the broad latitude given Carrier's by this Board in the matter of assessing discipline, we will not upset its punishment decided upon by the Carrier. Award No. 12438 and others cited therein."

In the circumstances this Claim will be denied.

Award Claim denied.


John Palloni, Employee Member


M. J. Hagen, Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member

Issued at Wilmington, Delaware, April 18, 1979.