

PUBLIC LAW BOARD NO. 2142

Award No. 2

Docket No. MW 1108

Case No. 10

Parties Brotherhood of Maintenance of Way Employees

to and

Dispute Illinois Central Gulf Railroad

Statement

of Claim: That R. P. Jackson was unjustly dismissed from the service and that the Illinois Central Gulf Railroad be ordered to restore R. P. Jackson to service with all rights unimpaired and with compensation for each work day beginning December 2, 1976 and continuing until such time as he is restored to service.

Findings: The Board, after hearing upon the whole record and 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, after a formal investigation had been held thereon, was dismissed from service for insubordination because he had walked off the job, about 3:20 p.m., on November 30, 1976 after failing to receive permission to lay off in order to get his wife.

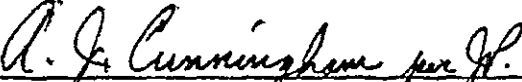
The Board finds that claimant was accorded due process. He was given proper notice, duly represented, faced his accusers and exercised his right of appeal.


The evidence adduced supports Carrier's conclusion as to Claimant's culpability. He simply was guilty of taking matters into his own hands after being denied permission to leave early in order to pick up his wife. Obviously the belated argument of Claimant's alleged illness does not square with the facts preceding such offer.

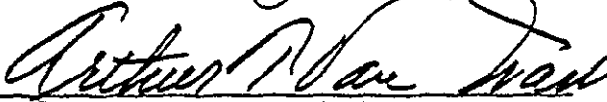
The Board finds circumstances which serve to mitigate the discipline of dismissal. Claimant will be restored to service with his seniority rights unimpaired but without any pay for the time out of service, subject to passing the usual return to service physical examination.

Award: Claim disposed of as per finding.

Order: Carrier is directed to make this Award effective within thirty (30) days of date of issuance shown below.

  
A. J. Cunningham, Employee Member

  
M. J. Hagen, Carrier Member

  
Arthur T. Van Wart, Chairman  
and Neutral Member

Issued at Falmouth, Massachusetts, August 27, 1978.