

Award No. 24  
Case No. 21

Public Law Board No. 2363

PARTIES  
TO  
DISPUTE:

Brotherhood of Maintenance of Way Employes  
and  
Louisville and Nashville Railroad Company

STATEMENT  
OF  
CLAIM:

1. The dismissal of Track Repairman D. R. Davis was without just and sufficient cause and on the basis of unproven charges.
2. Claimant Davis shall be returned to service and afforded all the other benefits and remedies prescribed in the first paragraph of Rule 27(f).

FINDINGS:

Claimant is one of four employes who were instructed by their foreman on Friday, July 1, to report for overtime work on Saturday and Sunday, July 2 and 3 in order to assist in unloading welded rail of about 1,320 feet in length. Carrier was concerned, not unreasonably, that unless the rail was unloaded, City ordinances against blocking street crossings might be violated.

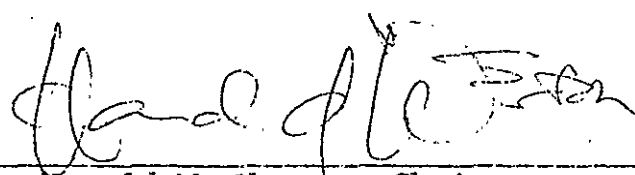
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Claimant raised no objection when the instructions were issued and has not presented any persuasive reason for not working on July 3 (he did report and perform service on July 2) or notifying Carrier that he would be absent.

Discipline is clearly warranted under these circumstances. However, dismissal is excessive. We will direct Carrier to offer claimant immediate reinstatement with seniority rights unimpaired but without back pay.

AWARD: Claimant reinstated without back pay. Award to be effective within 30 days of adoption.

Adopted at Louisville, Kentucky, January 30, 1980.



Harold M. Weston, Chairman



Carrier Member



Employee Member