

Award No. 31
Case No. 67

Public Law Board No. 2363

PARTIES
TO
DISPUTE:

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

STATEMENT
OF
CLAIM:

1. The removal of Foreman R. E. Parks' name from the Rank 1 (Foreman) and Rank 2 (Assistant Foreman) seniority roster for his alleged "inability to perform the duties of a foreman while working with Gang 9-394" was without just and sufficient cause.
2. Claimant shall be reinstated to his foreman's position on Gang 9-394 with his Rank 1 and Rank 2 seniority restored and compensated for all wage loss suffered as a result of this demotion.

FINDINGS:

Claimant, an employe with five years overall service including $2\frac{1}{2}$ years as foreman, was relieved of his duties as foreman on the ground of

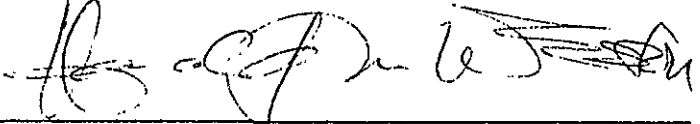
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inability to perform them. After a hearing had been held in the matter, his name was removed from the Foreman and Assistant Foreman seniority roster.


While we have some reservation regarding a conclusion based on the testimony of one supervisor that a foreman with 2½ years experience in that position lacks the necessary competence to discharge his responsibilities, we are not satisfied that on this record it is appropriate for this Board to substitute its judgment for that of Carrier. The record contains credible evidence that claimant's gang was extremely late in beginning work on at least three occasions, that the gang improperly placed ties in other instances and that claimant failed to carry out instructions in important respects. There is no evidence that personal animus or any other improper consideration played a part in Carrier's decision.

AWARD: Claim denied.

Adopted at Louisville, Kentucky, DECEMBER 22, 1980.


Harold M. Weston, Chairman


Carrier Member


Employee Member