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 Foreman G. R. Steele was

without just and sufficient cause; on the

basis of unproven charges; extremely dispro-

portionate to the charges (System File 1-11

(88)/D-106638E-306-181).

2. Claimant Steele shall be reinstated to

service with seniority rights unimpaired and

be paid for all time lost from November 29,

1976.

FINDINGS:

The record shows that although foreman of

Gang 153 at the time in question, claimant took

with him the only keys to the gang's two trucks

when he left work on August 25, 1976, and failed

to report for work on the following day. He

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did not call in to explain his absence to anyone in authority or make arrangements to have the truck keys brought to the gang. As a consequence, the service of both trucks were lost for the entire day and Carrier was deprived of his gang's services for about two hours. Claimant's excuse that he had car trouble and regarding communication difficulties are unpersuasive.

Serious discipline under the circumstances is not unwarranted. It was appropriate for Carrier to consider, in assessing the measure of discipline, that claimant had previously been dismissed and subsequently reinstated on a leniency basis.

We are not satisfied, however, that a sound basis exists for separating claimant from Carrier's payroll. Accordingly, we will direct that he be restored to Carrier's service, but in a Rank 3 position with seniority rights unimpaired but without back pay, subject to the understanding that he will be permitted to bid for a supervisory position after having served in a satisfactory manner for six months as a Rank 3 employe.
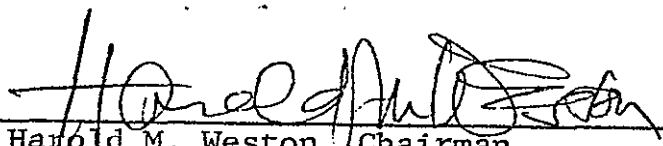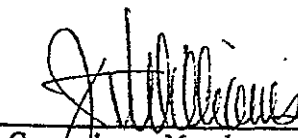
AWARD: Claimant to be offered immediate employment
         in a Rank 3 position, without back pay and

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subject to the conditions set forth in last

paragraph of Findings. Award to be effective

within 30 days of adoption.

Adopted at Louisville, Kentucky, December 10, 1979.

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Harold M. Weston, Chairman

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Carrier Member

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Employe Member