

Award No. 58
Case No. 114

Public Law Board No. 2363

PARTIES
TO
DISPUTE:

Brotherhood of Maintenance of Way Employees

and

Seaboard System Railroad (former L&N Railroad)

STATEMENT
OF
CLAIM:

Claimant M. M. Armstead shall be reinstated with seniority and all other rights unimpaired and compensated for all wage loss suffered.

FINDINGS:

Claimant, a track repairman, was dismissed from Carrier's service for refusing to comply with orders to pull spikes from a track. The orders were unambiguous and exposed him to no hazard. They were given to him directly by Foreman Howard and by Foreman Skipper, both of whom were competent to give them.

When claimant was first instructed to pull spikes by Foreman Howard, he replied that that he wanted to distribute, not pull, spikes and that he was senior to other employees who were distributing spikes. Claimant then stated that he wished to go to the rest room. When he returned, Foreman Skipper instructed him to pull spikes; claimant's response was that he did not feel well. Foreman Skipper then told him to go home and claimant declined to do so,

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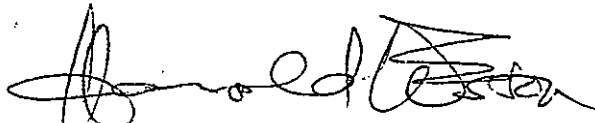
whereupon Mr. Skipper again ordered him to pull spikes and claimant did not comply with the order.

There is no sound reason why Carrier's supervisory force should have to put up with this sort of nonsense and attendant delays and aggravation.

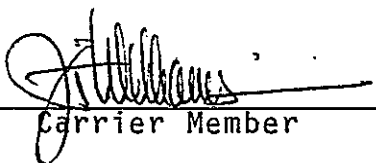
Discipline was clearly appropriate and in view of the flagrant nature of the offense and the fact that claimant had been suspended for 45 days in 1980 for failure to following a foreman's instructions, we find no basis for concluding that Carrier's decision to dismiss claimant was arbitrary or excessive discipline.

AWARD: Claim denied.

Adopted at Jacksonville, Florida, January 28, 1985.



Harold M. Weston, Chairman


Carrier Member
Employee Member