

PUBLIC LAW BOARD NO. 2366

AWARD NO. 2

CASE NO. 3

CASE #1196 MW

FILE: C-96-T-78

PARTIES TO DISPUTE:

Illinois Central Gulf Railroad Company

and

Brotherhood of Maintenance of Way Employees

STATEMENT OF CLAIM

"Claim of the System Committee of the Brotherhood that:

(1) The suspension and subsequent dismissal of Trackman T. J. Haugh were without just or sufficient cause and extremely disproportionate to the offense with which charged (File C-96-T-78) (Case No. 1196 M W).

(2) Claimant Haugh shall be restored to service with seniority rights unimpaired and with pay for all time lost."

OPINION OF BOARD

On January 10, 1978, Claimant was notified to attend an investigation on charges of having been insubordinate, quarrelsome and using profanity toward a General Foreman on January 4, 1978, and again on January 5.

After separate investigations were conducted, the Claimant was suspended for sixty (60) days regarding the January 4 incident and dismissed from service regarding the incident of January 5.

We have considered the rather lengthy record and note that the incidents started when Claimant was questioned as to the whereabouts of his "hard hat" and we have also noted that considerable time was devoted to the question of who may have first employed profanity.

It is well established in this type of a procedure that this Board does not sit as a trier of fact, nor do we have authority to make credibility determinations. The record contains substantive evidence to warrant Carrier's findings, and we find no basis for disturbing same. Thus, the record shows that Claimant instituted the "name calling" and that he persisted in that conduct even after he was warned to refrain from that activity. Claimant was not content to let the matter remain in that posture; but rather, he appeared at the Track Supervisor's Office the next day and continued his verbal barage.

Claimant's conduct is clearly prohibited by Rule K. Nothing has been presented which suggests to us a basis for altering the discipline imposed.

FINDINGS

The Board, upon consideration of the entire record and all of the evidence finds:

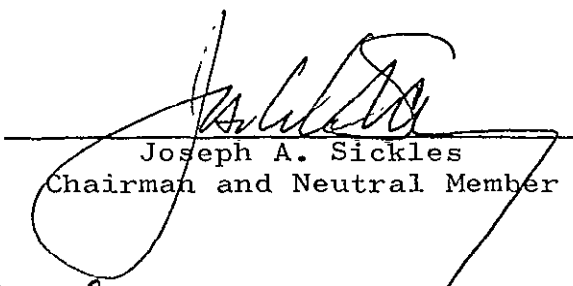
The parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended.


This Board has jurisdiction over the dispute involved herein.


The parties to said dispute were given due and proper notice of hearing thereon.

AWARD

Claim denied.


Joseph A. Sickles
Chairman and Neutral Member


Hugh G. Harper
Organization Member


Michael J. Hagan
Carrier Member

12/10/79
DATE