

PUBLIC LAW BOARD NO. 2366

DOCKET NO. 40

AWARD NO. 28

CASE NO. 1417 MW

FILE: IL-166-T-80

PARTIES TO DISPUTE:

Illinois Central Gulf Railroad

and

Brotherhood of Maintenance of Way Employees

STATEMENT OF CLAIM

- "(1) The ninety (90) day suspension assessed P. E. Williams was without just and sufficient cause, arbitrary, capricious and on the basis of unproven charges.
- (2) Claimant P. E. Williams shall be compensated for all wage loss suffered during the ninety (90) day suspension."

OPINION OF BOARD

The Claimant was notified to attend a formal investigation concerning an allegation that he was sleeping while on duty and refused to follow instructions.

Subsequent to the investigation, he was suspended for ninety (90) days.

The Carrier presented various evidence showing that the Employee refused to perform certain services, sat idly by while others worked, did not comply with various instructions, and that for a period of two hours he sat in a precarious location between two cars with his eyes closed.

The Organization raises a number of contentions, and it questions that the Employee could have been in the position described for a two hour period. Nonetheless, the Claimant, although he denies sleeping for two hours, does admit that he did sit in the location described for a 10 minute period.

We do not agree that the charge is vague, although we do confine our findings to the items that were charged specifically against the Employee.

It may very well be that the supervision involved should have done things in a manner differently, and that their actions may warrant close scrutiny. Nonetheless, that does not absolve the Employee from culpability for his actions. Our review of the entire record leads us to believe that the Carrier presented sufficient evidence for which it could base a finding that the Employee was, on the day in question, sleeping while on duty, and that he refused to follow certain legitimate work instructions.

We do not agree that the assessment of a ninety (90) day suspension was arbitrary or capricious under the circumstances, and we will deny the claim.

FINDINGS

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

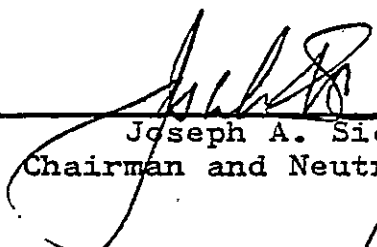
The parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended.

This Board has jurisdiction over the dispute involved herein.

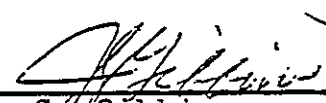
The parties to said dispute were given due and proper notice of hearing thereon.

AWARD

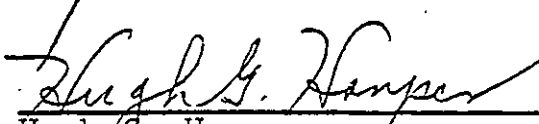
Claim denied.



Joseph A. Sickles
Chairman and Neutral Member



J. S. Gibbins
Carrier Member



Hugh G. Harper
Organization Member

2/23/82

DATE