

PUBLIC LAW BOARD NO. 2366

AWARD NO. 43

DOCKET NO. 55

BMW NO. SL-325-T-81

ICG NO. 1474

PARTIES TO DISPUTE:

Illinois Central Gulf Railroad Company

and

Brotherhood of Maintenance of Way Employees

STATEMENT OF CLAIM

- "(1) The dismissal of C. R. Kaemmerer, Sr., was without just and sufficient cause and excessive...
- "(2) The Carrier violated the effective Agreement in that the investigation was not timely held in accordance with Rule 33(a).
- "(3) For either or both of the above, Foreman C. R. Kaemmerer, Sr., shall be reinstated with seniority and all other rights unimpaired and compensated for all wage loss suffered."

OPINION OF BOARD

The Claimant was notified to attend an Investigation concerning a charge that he had duplicated a claim for automobile expenses and that he had received duplicate payments.

Subsequent to the Investigation the Claimant was terminated from service.

The Claimant was required to attend a civil court matter and he was to be reimbursed his expenses by the Carrier.

He submitted an expense form for sixty-three dollars and twenty-seven cents (\$63.27) which was paid by the Carrier and in addition, the Claim Agent sent an additional check to the Claimant for forty-one dollars and forty cents (\$41.40).

Initially the Employee raises the question of timeliness concerning the requirement that notice of hearing shall be given to the employee within ten (10) days of the date that knowledge of the alleged offense was received by the appropriate person.

We have reviewed this record and we are unable to find that there is evidence to contradict the Carrier's assertion that the notification was given within the ten (10) days after the type of knowledge discussed in 33(a) was placed in issue.

Concerning the merits of the dispute the Claimant denies that he initiated or perpetrated "obtaining monies in a dishonest manner."

We do not find it necessary as a prerequisite to disciplining the Employee that he be the moving force in receipt of the two (2) checks. It is sufficient if he received duplicate payment and armed with reasonable knowledge that the checks were a duplication proceeded to accept the dual payments.

We will deny the claim.

FINDINGS

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

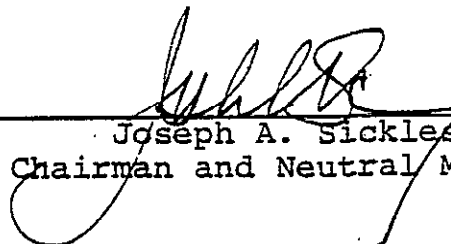
The parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended.

This Board has jurisdiction over the dispute involved herein.

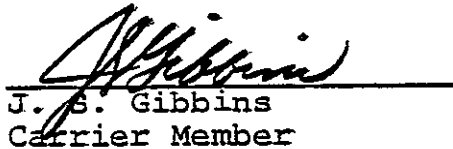
The parties to said dispute were given due and proper notice of hearing thereon.

AWARD

Claim denied.



Joseph A. Sickles
Chairman and Neutral Member



J. S. Gibbins
Carrier Member



Hugh G. Harper
Organization Member



DATE