

PUBLIC LAW BOARD NO. 2366

Docket No. 2

Award No. 5

Case No. MW-1214

File: T-217-T-78

PARTIES TO DISPUTE:

Illinois Central Gulf Railroad

and

Brotherhood of Maintenance of Way Employees

STATEMENT OF CLAIM

"Claim of the System Committee of the Brotherhood that:

(1) The dismissal of Bridgeman Raymond Pickens was without just and sufficient cause and on the basis of unproven charges (File T-217-T-78)

(2) Claimant Raymond Pickens shall be restored to his former position with seniority and all other benefits unimpaired and with compensation for all time lost."

OPINION OF BOARD

On February 6, 1978, the Carrier notified the Claimant of an investigation concerning a charge of theft and sale of Company property without proper authority. Thereafter, the investigation was postponed on three occasions, but was finally conducted. The Claimant was not present, however his representative stated that there was no objection to proceeding in his absence.

Subsequent to the investigation, the Claimant was dismissed from service.

Certain of the Carrier's material was stolen, and investigations indicated that locks had been broken and doors opened for the guilty person to gain access to said

material.

Thereafter, Carrier agents received information regarding the location of certain of the tools and the investigation implicated the Claimant as having been involved in the distribution of the stolen material.

The Claimant was interviewed by a civilian policeman and Carrier's agent, and after he was advised of his legal rights to remain silent, the Claimant admitted to selling the tools which he had previously worked with. He stated, however, that he was not aware that they had belonged to the Carrier until he reported for work and found that the "tool car" had been broken into.

The Claimant thereafter assisted the Carrier in locating certain other of the stolen material.

A warrant was issued by appropriate officials of Tallahatchie County and the Claimant was arrested on a charge of grand larceny.

The Organization argues that the Carrier failed to show that the Claimant was the "unknown person or persons" who entered the tool car and removed the equipment.

We do not concur with the Organization in its contentions. There was sufficient evidence to show that the tools in question were of the nature that the Employee should have known that they were similar or identical to the tools that he used on a day-to-day basis, and he admitted distribution of same.

Our review of the record indicates that the Carrier was justified in moving forward with the investigation and that evidence was presented to establish the Employee's guilt.

FINDINGS

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

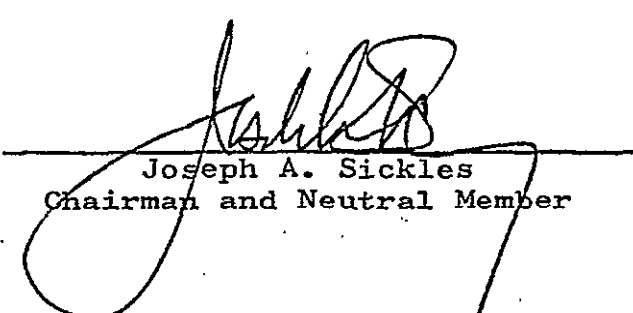
The parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended.


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

3/10/80
DATE