

PUBLIC LAW BOARD No. 2366

AWARD No. 61

DOCKET NO: ~~88~~ 77

PARTIES TO DISPUTE:

Illinois Central Gulf Railroad Company

and

Brotherhood of Maintenance of Way Employees

STATEMENT OF CLAIM

1. That Mr. O. Wallace was improperly dismissed from service for allegedly failing to obey instructions and using abusive and violent language to his foreman.
2. That Mr. Wallace be restored to service with all rights unimpaired and paid for each day he is made to miss work.

OPINION OF THE BOARD

The Claimant is charged with "failure to obey instructions and using abusive and violent language to his foreman on Tuesday, May 3, 1983."

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

On the day in question, the Employee was instructed to retrieve certain bolts. Although the Claimant asserted that he started to retrieve the bolts, he stopped and conversed with another employee for a period of time. In any event, an argument ensued between the Claimant and the Foreman and during that argument the Claimant directed certain profane remarks to the Foreman.

The Carrier argues that the Claimant did fail to respond to instructions and in addition he undermined the Supervisor's authority in front of a fellow employee; which justified the dismissal.

Conversely, the Organization states that the Foreman initiated the verbal abuse because the Claimant did not immediately perform his duties.

The Board has considered the record in this case and we find ample evidence presented to support the Carrier's conclusion that the Claimant was guilty of the charges and we will not substitute our judgement for the Carriers in that regard.

However, concerning the imposition of total dismissal from service, we feel that the Carrier was unduly harsh in this particular case.

We do not minimize the importance of compliance with instructions nor do we condone verbal confrontations with Supervisors and/or use of profane language in those circumstances. Nonetheless, from our entire review of the transcript we feel that imposition of dismissal was arbitrary and we will restore the Claimant to service, but without back pay.

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.

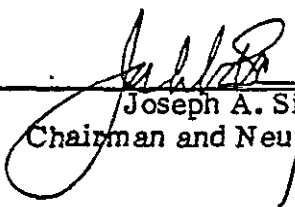
This Board has jurisdiction over the dispute involved herein.

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

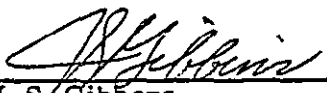
AWARD

1. The termination is set aside.
2. The Claimant is restored to service with retention of seniority and other benefits, but without reimbursement for compensation lost during the period of the suspension.

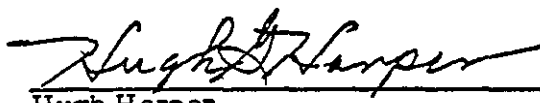
3. The Carrier shall comply with this Award within 30 days of the effective date.



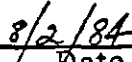
Joseph A. Sickles
Chairman and Neutral Member



J. S. Gibbons
Carrier Member



Hugh Harper
Organization Member



Date