

PUBLIC LAW BOARD No. 2366

AWARD No. 68

DOCKET NO: 84

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 dismissal of L. W. McKinley for allegedly abandoning his position was without just and sufficient cause. (Organization File N-10-T-83; Carrier File 1595.)
2. Claimant McKinley shall be reinstated with seniority and all other rights impaired and compensated for all wage loss suffered."

OPINION OF THE BOARD

The Claimant was away from work without permission for a significant period of time and on September 7, 1983 he was removed from the seniority list under the provisions of Rule 38.

That rule provides that an employee who is absent from his assigned position without permission for seven consecutive work days will be considered as having abandoned his position and resigned from service of the Carrier.

This Board noted in Award No. 4 that the rule is self executing and absent some situation of impossibility of compliance a Carrier's action must be upheld under such a provision.

The Employee makes reference to certain hospitalization and some asserted knowledge of his situation by the Carrier; however, as we read the record and the rule, the Employee did abandon his position.

### FINDINGS

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

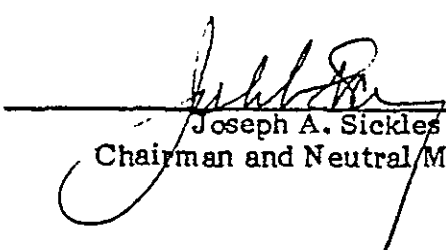
The parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended.


This Board has jurisdiction over the dispute involved herein.

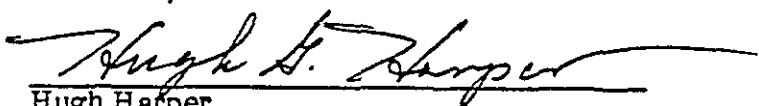
The parties to said dispute were given due and proper notice of hearing thereon.


### AWARD

Claim denied.

  
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Joseph A. Sickles  
Chairman and Neutral Member

  
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J. S. Gibbons  
Carrier Member

  
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Hugh Harper  
Organization Member

  
\_\_\_\_\_  
8/2/84  
Date