

PUBLIC LAW BOARD NO. 2366

AWARD NO. 7

CASE NO. 12

CASE #1220 MW

FILE: SL-237-T-78

PARTIES TO DISPUTE:

Illinois Central Gulf Railroad Company

and

Brotherhood of Maintenance of Way Employees

STATEMENT OF CLAIM

"(1) The suspension of Trackman T. L. Mueller from May 12, 1978 to August 19, 1978 was without just and sufficient cause.

(2) The charge shall be stricken from Claimant's record and he shall be accorded the benefits of Rule 33(i)."

OPINION OF BOARD

Claimant was notified of a formal investigation concerning an alleged insubordination for failure to attend remedial safety instructions. Subsequent to the hearing, he was suspended for ninety (90) days.

Carrier instructed Claimant to attend a remedial safety class on February 22, 1978. When he failed to attend - or notify Carrier of inability - he was charged.

Although Claimant raised certain objections (at the hearing) to being required to attend because of his furloughed status (even though he had certain displacement rights) he also asserted an inability to complete the trip because his truck "broke down."

It may be that under certain circumstances a furloughed employee does not owe the same degree of responsibility to an employer as does an active employee. But, we do not find it necessary to decide that question which is much broader than the one presented here. This Claimant was "bumped" on

February 13 and he had fifteen (15) days to exercise certain options. He was within that time frame when instructed to report and we feel that at that time - at the very least - he was obligated to communicate to his employer a desire to refrain from attending.

Even if the Employee experienced automobile problems, he was obligated to attempt to so notify the Carrier. He failed to do so.

A ninety (90) day suspension may seem excessive at first glance; however a review of Claimant's prior record suggests that he has been disciplined previously - in a relatively short career - for similar type offenses.

#### FINDINGS

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

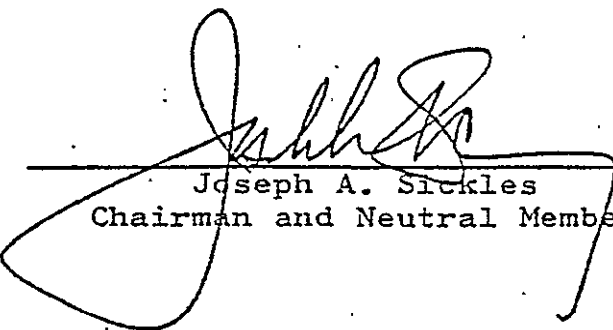
The parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended.


This Board has jurisdiction over the dispute involved herein.

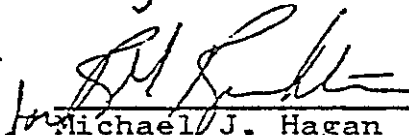
The parties to said dispute were given due and proper notice of hearing thereon.

#### AWARD

Claim denied.

  
Joseph A. Sickles  
Chairman and Neutral Member

  
Hugh G. Harper  
Organization Member

  
Michael J. Hagan  
Carrier Member

6-9-80

DATE