

PUBLIC LAW BOARD NO. 2366

AWARD NO. 73

CASE NO. 93

**PARTIES TO DISPUTE:**

Illinois Central Gulf Railroad

and

Brotherhood of Maintenance of Way Employees

**STATEMENT OF CLAIM**

1. The dismissal of J. A. Harris for allegedly sleeping on duty was without just and sufficient cause and excessive. (Organization File N-22-T-83; Carrier File 1612).
2. Machine Operator J. A. Harris shall be reinstated with seniority and all rights unimpaired and compensated for all wage loss suffered."

**OPINION OF THE BOARD**

The Claimant was notified of an investigation on a charge of "sleeping in a car" while on duty. Subsequent to the investigation, he was dismissed from service.

The Claimant denies the accusation. He insists that he merely sought shelter (in his automobile) from heavy rain. The Supervisor's testimony is quite to the contrary and we find no basis to alter the credibility determinations made on the property.

Sleeping while on duty is a serious offense and may warrant dismissal. This Employee had about ten (10) years of service at the time of the incident. In the past few years, he has had certain disciplinary problems. We will restore Claimant to service but without back pay.

**FINDINGS**

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

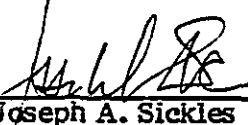
The parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended.

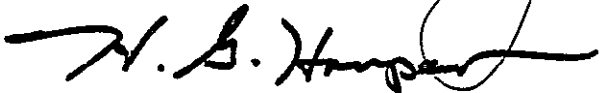
This Board has jurisdiction over the dispute involved herein.

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

AWARD

1. The termination is set aside.
2. Claimant shall be restored to service with full retention of seniority and other benefits but he shall not be reimbursed for compensation lost during the period of the suspension.
3. Carrier shall comply with this Award within thirty (30) days of the effective date.

  
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Joseph A. Sickles  
Chairman and Neutral Member

  
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H. G. Harper  
Organization Member

  
\_\_\_\_\_  
J. S. Gibbins  
Carrier Member

12-17-84

Date