

PUBLIC LAW BOARD 2366

Illinois Central Gulf Railroad	:	
	:	Award No. 106 7/
v.	:	Docket No. 106
	:	
Brotherhood of Maintenance of	:	
Way Employees	:	

STATEMENT OF CLAIM

Claim of J. L. Riddle for reinstatement with pay following his dismissal on February 8, 1985.

OPINION OF THE BOARD

The evidence presented by the Carrier showed that in February of 1984 the Claimant removed a chainsaw from the Carrier's premises without permission and he apparently used the saw for a period of time before leaving it at the home of his sister.

Although there is some testimony by the Claimant that he intended to return the saw it was stolen from his sister's house sometime in October of 1984 and was ultimately recovered from a pawn shop where it had been sold by the person who had stolen it from the sister's home.

When confronted with the circumstances, the Claimant admitted taking the saw, although he claimed that he intended to return it, and when the Company missed the saw and started asking questions he became frightened and, although he was going to "ease it back in with no sweat," he never got around to doing so.

There was ample evidence presented by the Carrier to substantiate the finding of guilt. In presentation to this Board various supposition was raised, however, those suppositions are not sufficient to alter the direct showing of culpability. It is not incumbent upon a Board such as this to ignore the findings of guilt when there is no indication that they are arbitrary or capricious, nor is it incumbent upon a Public Law Board to substitute its judgment for that of the Carrier concerning the amount of disciplinary action to be imposed unless, again, there is a showing of arbitrary and capricious imposition of the penalty. We are unable to make that finding in this case.

FINDINGS

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

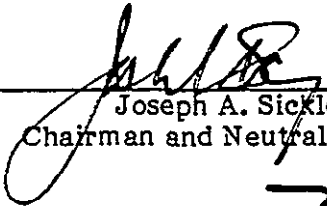
The parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended.

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



E. S. Gibbins
Carrier Member



Hugh Harper
Organization Member



8/27/86
Date