

Public Law Board No. 3794

PARTIES  
TO  
DISPUTE:

Brotherhood of Maintenance of Way Employes  
and  
CSX Transportation, Inc.

STATEMENT  
OF  
CLAIM:

The termination of Trackman L. L. Davis' seniority was without just and sufficient cause. He shall be reinstated with seniority and all other rights unimpaired and compensation for all wage loss suffered beginning on January 27, 1986, the date of his release by his doctor for return to work.

FINDINGS:

The Carrier's position is that claimant resigned from its service on October 10, 1985 when he informed his foreman, A. R. Conner, that he was quitting Carrier's service in order to embark on a business venture of his own. Conner reported that development to Roadmaster Edwards and Carrier's <sup>new</sup> were noted to show a resignation.

While claimant recalled the conversation which took place when his Section Gang was at work, he insists that he said "I quit" jokingly and that "we always take nothing serious, all of us, when we work together." Conner and Signal Maintainer Griffin both testified that claimant said that day he was quitting

and that he did so in a very serious manner.

Carrier's position is supported to a considerable extent by the fact that nothing was heard from claimant after October 10 until two months later, in December.

The difficulty with Carrier's position, however, is that it never obtained a signed statement of resignation or indeed until after claimant reappeared and sought to return to work, did not send him any written confirmation as to his resignation and the incident of October 10.

A resignation from employment is a very serious matter and is not treated as informally by an employer as it appears to have been in this case. The record is not sufficient to support Carrier's contention that claimant resigned and no charge or finding has been made with respect to long unexcused absence.

Claimant will be restored to service without back pay.

AWARD:


Claimant reinstated with seniority rights unimpaired but without back pay. To be effective within 30 days.



Adopted at Jacksonville, Florida, March 17, 1987.

  
Harold M. Weston, Chairman

  
Carrier Member

  
Employee Member