

PUBLIC LAW BOARD NO. 2142

Award No. 25

Docket No. 1189

Parties Brotherhood of Maintenance of Way Employees
to and
Dispute Illinois Central Gulf Railroad

Statement

of Claim: The dismissal of Welder D. W. Populis was without just and sufficient cause and wholly disproportionate to the alleged offense. That Welder D. W. Populis be restored to service with all rights unimpaired, his record cleared of the alleged offense and he be compensated for all time lost in this case.

Findings: The Board, after hearing upon the whole record and all evidence, finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, that this Board is duly constituted by Agreement dated January 23, 1978, that it has jurisdiction of the parties and the subject matter, and that the parties were given due notice of the hearing held.

Claimant, on January 3, 1978, was notified to attend an investigation to determine the facts and place responsibility in connection with having absenting himself from duties without permission on December 29 and again on December 30, 1977 and, in addition, that his personal record would be reviewed at said investigation. As a result of the investigation held, Claimant was dismissed, under date of January 25, 1978, from the service of the Company.

The Board finds that Claimant was given a fair hearing.

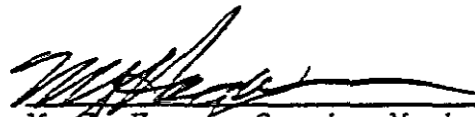
The evidence reflects that Claimant had been given permission to leave the property because he had got wet in the performance of his duty. He went home to change his clothes. However, after getting home he failed to return because of an alleged personal incidence occurring at home which required him to take someone to a hospital. On the following day, on the 30th, after reporting for work, Claimant requested permission to go to see his lawyer. Such request was denied. Nevertheless, Claimant left the property and returned thereafter.


The Board finds that the circumstances are such as to provide that the Claimant will be given a "last chance" with the specific warning and stipulation that the next time that he fails to perform as instructed, or to properly protect his position and disciplinary action is undertaken this Award will serve as prime facie evidence that Claimant had been given his last opportunity to work for the Illinois Central Gulf Railroad. Claimant as an employee, has an obligation and duty to observe. Consequently before he is actually restored to service he and his representative are to meet with Carrier's designated representative to review Claimant's personal record and establish that Claimant properly understands his obligations as an employee. He thus is restored to service with seniority rights unimpaired but without any pay for time out of service subject to the above and passing the necessary return to service examination.

Award: Claim disposed of as per finding.

Order: Carrier is directed to make this Award within thirty
30 days of date of issuance shown below.


J. P. Paloni, Employee Member


M. J. Hagen, Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member

Issued at Falmouth, Massachusetts, September 26, 1979.