Public Law Board No. 2363

PARTIES TO DISPUTE:	Brotherhood of Maintenance of Way Employes and Louisville and Nashville Railroad Company

STATEMENT
OF
CLAIM:

1. The dismissal of Track Repairmen W. M. Behel and M. A. Bramlett was without just or sufficient cause and extremely disproportionate to the offense with which charged.

2. Claimants shall be restored to service with seniority rights unimpaired and pay for all time lost. Rule 27(f).

FINDINGS:

The evidence is clear that both claimants failed to report for duty on assigned work days without notification to anyone in authority. As a result, their Section Gang was caught short and had to operate below strength. The men had previously been cautioned against absences without permission by their Foreman as well as

by Roadmaster Clark. The record discloses no prejudicial procedural error.

In the light of this record, serious disciplinary action is warranted. We are of the opinion, however, that claimant Bramlett merits another opportunity to demonstrate that he can be relied on to provide steady service. We will direct Carrier to reinstate him promptly with seniority rights unimpaired but without back pay.

We might have been persuaded to reduce the discipline assessed against claimant Behel to the same degree. However, he has expressed a desire in writing not to be employed by Carrier and went so far as to use extremely contemptuous and insubordinate language in his August 1977 letter to Division Engineer Vaughn. Making all due allowance for the irritation Behel undoubtedly felt for being dismissed, we nevertheless are not in a valid position to require Carrier to take back an employe who has expressed his dislike of the Carrier in the extreme terms used in the aforementioned letter.
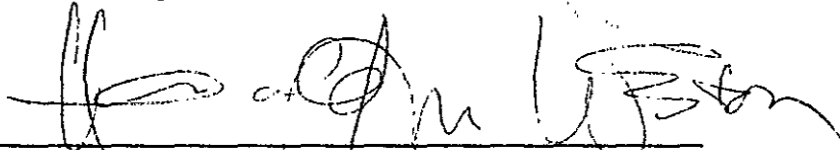
AWARD: Claimant Bramlett to be offered immediate reinstatement without back pay. To be effective within 30 days.
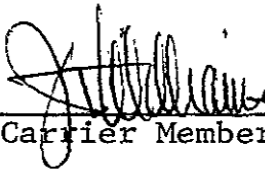
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Claim of W. M. Behel is denied.

Adopted at Louisville, Kentucky,
January 7, 1980.

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Harold M. Weston, Chairman

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Carrier Member

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Employe Member