

Award No. 20
Case No. 38

Public Law Board No. 2363

PARTIES
TO
DISPUTE:

Brotherhood of Maintenance of Way Employees
and
Louisville and Nashville Railroad Company

STATEMENT
OF
CLAIM:

1. Dismissal of P. D. Durkalski, D. M. Brady and J. M. Bowling are without just and sufficient cause.
2. Each of these claimants will be restored to service with seniority rights unimpaired and with pay for time lost. Rule 27(f).

FINDINGS:

Claimants were dismissed for failing to protect their assignments on January 4, 1978 and being absent without permission.

The record supports Carrier's findings that claimants appeared at the gate just before their assigned reporting time on the morning in question and milled around at that location with several other employees, but did not report for

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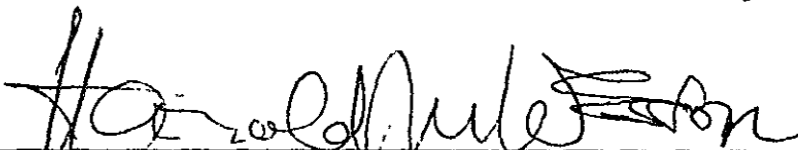
duty. They had not been excused from work that day.

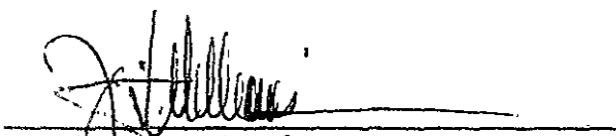
We find no basis for setting aside the dismissal of Durkalski and Brady. The latter had been previously dismissed on June 30, 1975 for insubordination, and reinstated on a leniency basis on October 6, 1975 without pay for time lost. Durkalski's dismissal for misconduct on December 29, 1977 was considered in our Award 19 concerning Case No. 37.

Bowling's record is relatively clear and we are of the opinion that he should be given another opportunity to demonstrate his willingness to fulfill his obligations as an employee. We will direct Carrier to offer Bowling immediate reinstatement with seniority unimpaired but without back pay.

AWARD: Claimant Bowling reinstated without pay for time lost. Claims denied as to claimants Durkalski and Brady.

Adopted at Louisville, Kentucky, January 7, 1980.


Harold M. Weston, Chairman


Carrier Member


Employee Member