

PUBLIC LAW BOARD NO. 2366

CASE NO. 21

AWARD NO. 11

CASE #1269 MW

FILE: 11-141-T-79

PARTIES TO DISPUTE:

Illinois Central Gulf Railroad

and

Brotherhood of Maintenance of Way Employees

STATEMENT OF CLAIM

- "(1) The dismissal of Trackman C. E. Hall for alleged insubordination was without just and sufficient cause, arbitrary, capricious and wholly disproportionate to such a charge (Case No. 1269 M. of W.)
- (2) Trackman C. E. Hall shall be reinstated with seniority and all other rights unimpaired and compensated for all wage loss suffered commencing January 26, 1979."

OPINION OF BOARD

The Claimant was instructed to attend an investigation to determine responsibility concerning an asserted refusal to obey an instruction. Subsequent to the investigation, the Employee was dismissed from Carrier's service, based on a finding that he was guilty of insubordination.

We have reviewed the entire record, and we are of the view that there was certain confusion on the day in question.

The Chicago area was suffering from severe snow storms and was in the midst of one of the worst winters in memory. This Claimant was one of the furloughed employees who were called back and asked if they desired to work removing snow from switches. The Claimant complied with the request.

On the day in question, the Division Engineer instructed the Claimant to leave a certain area. The Employee insists that the instructions were geared toward going to a certain location to eat, and the Employee did not desire transportation to that area because he was not hungry, and in any event, he

did not care for the food served at the particular facility. The Supervisor gives a different interpretation, stating that his order was not limited to the question of intake of food.

In our review of the record, we do see that it is quite possible that the Employee suffered from certain misunderstanding as to the nature of the instruction. At the same time, we have been quite insistent in past Awards that an Employee does not lightly disregard an instruction given by a Supervisor. Certainly, there was nothing about the instruction which was perilous to the Employee's health or safety and under the circumstances, we feel that the Employee should have complied with the instruction and sought redress at a later time. In any event, we find that there was a basis for discipline, however because of the misunderstanding that may very well have existed, we are of the view that the discipline of dismissal is too severe.

#### FINDINGS

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

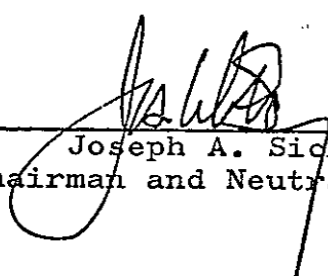
The parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended.


This Board has jurisdiction over the dispute involved herein.

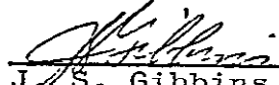
The parties to said dispute were given due and proper notice of hearing thereon.

AWARD

1. The termination is set aside.
2. The Claimant shall be restored to service with seniority and other rights unimpaired, but he shall not receive any reimbursement for compensation lost during the period of suspension.
3. The Carrier shall comply with this Award within thirty (30) days of the effective date.

  
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Joseph A. Sickles  
Chairman and Neutral Member

  
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Hugh G. Harper  
Organization Member

  
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J. S. Gibbins  
Carrier Member

9/5/80  
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DATE