

PUBLIC LAW BOARD NO. 2366

AWARD NO. 13

DOCKET NO. 25

CASE #1295 MW

FILE: K-152

PARTIES TO DISPUTE:

Illinois Central Gulf Railroad Company

and

Brotherhood of Maintenance of Way Employees

STATEMENT OF CLAIM

"Claim of the System Committee of the Brotherhood that:

- (1) The dismissal of Machine Operator R. E. Wiley was excessive and wholly disproportionate to the charge leveled against him (Case No. 1295 M of W).
- (2) Machine Operator R. E. Wiley shall be reinstated with all rights unimpaired and be compensated for all wage loss suffered."

OPINION OF BOARD

Subsequent to notice of investigation, the Employee was dismissed from service for selling "...company property without authority for personal gain..."

We have noted the Employee's previously unblemished sixteen years of service; and our review of the record does not compel us to find that there is clear evidence to contradict his testimony that he felt that the cross ties in question were scrap ties and not reusable.

Thus, it is incumbent upon us to determine if this very serious charge may be mitigated under those circumstances.

Our attention has been invited to Award No. 2 of Public Law Board 1844. We find that the comments contained therein have certain applicability to this record and thus, we find

that it is not inappropriate to restore this Employee to service, without reimbursement for back pay which he has lost.

It should be stressed, however, that the much better course to follow is to refrain totally from any dealings concerning property owned by other people. An employee who departs from that course does so at significant peril to his future employment relationship.

FINDINGS

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

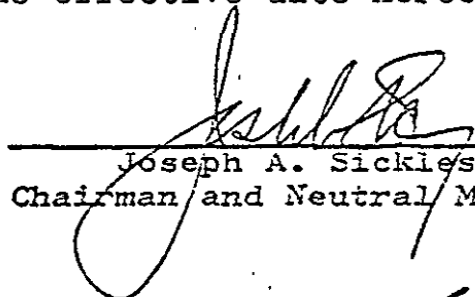
The parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended.

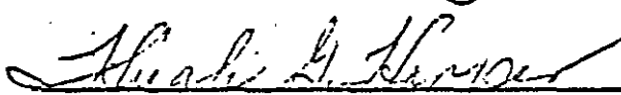
This Board has jurisdiction over the dispute involved herein.


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

AWARD

1. Termination is set aside.
2. The Claimant shall be restored to service with seniority rights unimpaired, but without reimbursement for compensation lost.
3. Carrier shall comply with this Award within thirty (30) days of the effective date hereof.


Joseph A. Sickles
Chairman and Neutral Member


Hugh G. Harper
Organization Member


R. G. Richter
Carrier Member

7/18/80
DATE