

PUBLIC LAW BOARD NO. 2366

DOCKET NO. 26

AWARD NO. 14

CASE NO. 1305 MW

FILE: 11-144-T-79

PARTIES TO DISPUTE:

Illinois Central Gulf Railroad Company

and

Brotherhood of Maintenance of Way Employees

STATEMENT OF CLAIM

"(1) The dismissal of Assistant Foreman W. G. Broadnax was without just and sufficient cause and wholly disproportionate to the charge leveled against him (Case No. 1305 M of W).

(2) Assistant Foreman Broadnax shall be reinstated with all rights unimpaired and be compensated for all wage loss suffered."

OPINION OF BOARD

The Claimant was notified to attend an investigation concerning an altercation which occurred on June 13, 1979. Subsequent to the investigation, the Claimant was terminated.

The Claimant was employed as an Assistant Foreman, and a confrontation developed between him and Trackman Ferris. During the confrontation, Ferris pushed a rail lifter at the Claimant, which resulted in a continuation of the altercation, to the point that the Claimant struck Ferris in the face.

The Claimant concedes that he struck the other employee, but he states that he was provoked because of certain statements made dealing with the Claimant's deceased mother.

No purpose is served by a lengthy exploration of the events which gave rise to the claim. Suffice it to say that there was an altercation, and the Claimant - an Assistant

Foreman - did strike the fellow employee; which act is certainly much less than would be expected of an Assistant Foreman.

Regardless of our individual view of the severity of the punishment in a normal case, our review of the record indicates that this Claimant has had a very unpleasant prior record, including prior incidences of altercations. We will deny the claim.

FINDINGS

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

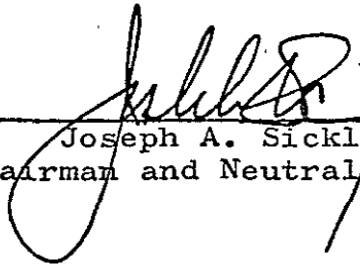
The parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended.

This Board has jurisdiction over the dispute involved herein.

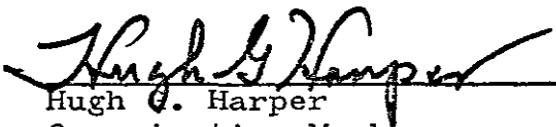
The parties to said dispute were given due and proper notice of hearing thereon.

AWARD

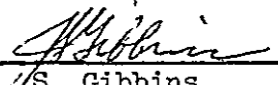
Claim denied.



Joseph A. Sickles
Chairman and Neutral Member



Hugh G. Harper
Organization Member



J. S. Gibbins
Carrier Member

11/1/80

DATE