

PUBLIC LAW BOARD NO. 2366

DOCKET NO. 43  
AWARD NO. 31  
CASE NO. 1419 MW  
FILE: IL-167-T-80

PARTIES TO DISPUTE:

Illinois Central Gulf Railroad

and

Brotherhood of Maintenance of Way Employees

STATEMENT OF CLAIM

- "(1) The ninety (90) day suspension assessed A. E. Burton for allegedly behaving in a quarrelsome and threatening manner towards his foreman was without just and sufficient cause.
- (2) Claimant A. E. Burton shall be compensated for all wage loss suffered during the ninety (90) day suspension."

OPINION OF BOARD

On October 9, 1980, the Claimant was notified to attend a formal investigation concerning asserted quarrelsome and threatening behavior toward a Track Foreman.

The evidence indicated that during a confrontation concerning reporting late for work, the Claimant grabbed the Foreman's wrist and suggested that the Foreman "shut up" on a number of occasions.

The Claimant, at the investigation, admitted that he grabbed the Foreman's wrist because the Foreman "...had his finger in my face, and once I moved his hand out of my face, I let his wrist go." He also concedes that he told the Foreman to "shut up", but he places the discussion in a different context.

The witnesses to the incident seemed to confirm the Foreman's version, rather than the Employee's. The Claimant has received a thirty (30) day suspension for violation of the same rule.

The Track Foreman testified that he did not feel threatened by the action, and the Organization argues that the Foreman was the aggressor in the dispute.

We are unable to find any basis for disturbing the conclusion that the Employee violated the rule, as cited, and based upon the prior record, we find no justification for reducing the quantum of punishment.

#### FINDINGS

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

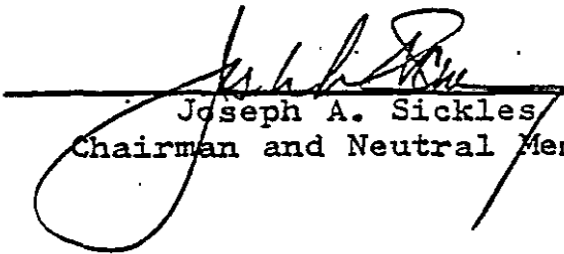
The parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended.

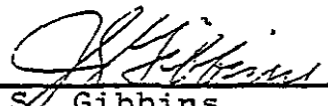
This Board has jurisdiction over the dispute involved herein.


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

#### AWARD

Claim denied.

  
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Joseph A. Sickles  
Chairman and Neutral Member

  
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J. S. Gibbins  
Carrier Member

  
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Hugh G. Harper  
Organization Member

2/23/82  
\_\_\_\_\_  
DATE