

PUBLIC LAW BOARD NO. 2366

DOCKET NO. 49

AWARD NO. 37

PARTIES TO DISPUTE:

Illinois Central Railroad Company

and

Brotherhood of Maintenance of Way Employees

STATEMENT OF CLAIM

- " (1) The dismissal of J. R. Wilson for alleged insubordination was without just and sufficient cause..
- (2) Bridgeman J. R. Wilson shall be reinstated with seniority and all other rights unimpaired and compensated for all wage loss suffered."

OPINION OF BOARD

The Claimant was notified of an Investigation concerning an asserted failure to comply with written instructions to report for a special physical examination.

After three (3) postponements the Investigation was held but the Employee failed to appear and failed to secure any representation. Subsequent to the Investigation he was dismissed from Carrier's service.

The Claimant had sustained an injury and when he returned to work was only able to work for one (1) day when it was necessary for him to be off again and over a month later the Company scheduled the physical examination in question to determine the nature and extent of the Claimant's problems. Claimant never appeared for that physical examination nor did he ever advise any superior of any reason why he could not report.

All of the Notices of Investigation were delivered upon the Employee by special agents.

The Organization has questioned the sufficiency of the procedural process given to the Claimant asserting that the Carrier did not properly provide notices to the Organization and that it proceeded without the Grievant being present when, in fact, the Grievance Representative had not been notified of the hearing and the Claimant was unable to find the location of the hearing in order to ask for an additional postponement.

We are unable to find that there is a requirement that the Organization be given specific notice of the hearing and it is unquestioned that the Grievant received notice of each Investigation as it was scheduled.

The General Chairman is the individual who requested the various postponements so that it cannot be argued that he was not advised of the Investigations as they were scheduled.

It would appear that the Claimant took deliberate steps to thwart the Investigation and after a reasonable period of time the Carrier decided to move forward and under the circumstances we cannot find that the Carrier's action was arbitrary or capricious.

FINDINGS

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

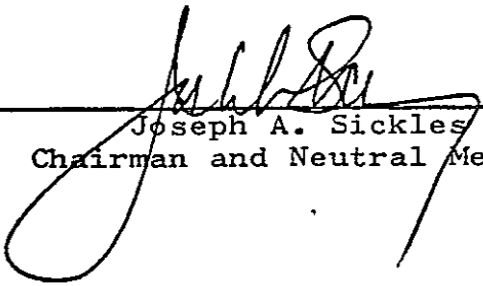
The parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended.

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



J. S. Gibbins
Carrier Member



Hugh G. Harper
Organization Member

Nov. 17, 1982
DATE