

PUBLIC LAW BOARD NO. 2366

AWARD NO. 51

DOCKET NO. 65

PARTIES TO DISPUTE:

Brotherhood of Maintenance of Way
Employees

and

Illinois Central Gulf Railroad

STATEMENT OF CLAIM

- "1. That Mr. H. B. Berry, Jr., was improperly dismissed from service on April 21, 1982, for absenting himself from his assigned position as Welder Helper on Gang 348 on March 22 through 29, 1982, without proper authority."

OPINION OF BOARD

The Claimant was notified of an investigation to determine whether or not he failed to protect his assignment as a welder helper from March 22, 1982 through March 29 of 1982.

Subsequent to the investigation the employee was dismissed from service.

The Claimant conceded, at the hearing, that he failed to report for the six (6) days in question.

There is nothing in the record to suggest that the Claimant requested permission to be away from duty nor did he attempt to contact the appropriate authority and advise why he was absent.

The Claimant asserted a number of events which precluded

him from reporting to work, including an alleged confrontation with his stepdaughter in which he was struck in the face with a tire iron and taken to a hospital where he was arrested. It does appear that he was incarcerated for a number of days as a result of the incident.

It is not appropriate for a board such as this to resolve credibility conflicts. Rather, we are required to accept credibility findings of the Carrier unless the evidence shows them to be arbitrary or capricious. We make no such finding in this case. Rather we find that the Claimant took actions which placed him in a position to be absent from his duties and accordingly the Company has demonstrated the basis for disciplinary action.

We have reviewed the Claimant's record which indicates that the employee has had a significant number of incidents regarding attendance at work. Under the circumstances we will deny the claim.

FINDINGS

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

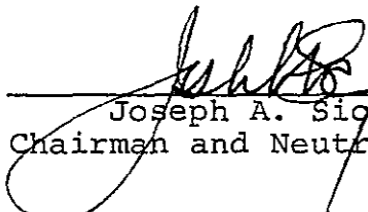
The parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended.

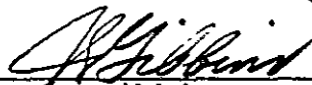
This Board has jurisdiction over the dispute involved herein.

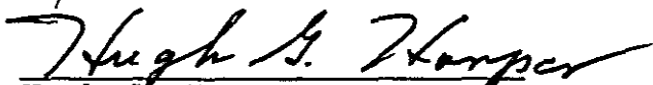
The parties to said dispute were given due and proper notice of hearing thereon.

AWARD

Claim denied.


Joseph A. Sickles
Chairman and Neutral Member


J. S. Gibbins
Carrier Member


Hugh G. Harper
Organization Member

10/12/83
DATE