

PUBLIC LAW BOARD No. 2366

AWARD No. 62

DOCKET NO: 78

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 Derrick Engineer R. M. Capra for alleged insubordination was without just and sufficient cause and excessive. (Organization File S-27-S-83; Carrier File 1596.)
2. Claimant R. M. Capra shall be reinstated with seniority and all other rights unimpaired and compensated for all wage loss suffered.

OPINION OF THE BOARD

The Claimant was charged with refusal to obey certain instructions concerning overtime work.

Subsequent to the investigation the Claimant was terminated from service.

There is ample evidence of record to show that the Supervisor instructed the employee that he would have to work overtime due to an emergency situation. The Employee was aware of the instruction but made a decision to leave rather than to remain at work.

The Claimant argues that he had previously secured permission to be away due to a personal reason.

We stress the importance of attendance mandated by emergency situations and cannot condone the Employee's actions of leaving the worksite for personal reasons.

Nevertheless, after a review of the entire record, we are inclined to restore the grievant to service but without back pay.

### 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.

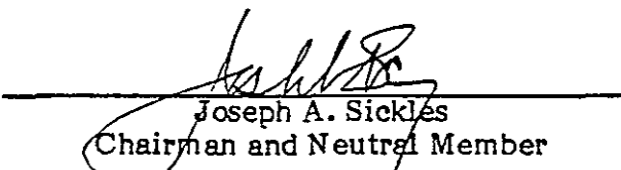
The parties to said dispute were given due and proper notice of hearing thereon.

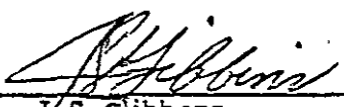
### AWARD


1. The termination is set aside.

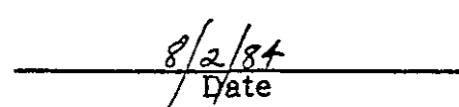
2. The Claimant is restored to service with retention of seniority and other benefits, but without reimbursement for compensation lost during the period of the suspension.

3. The Carrier shall comply with this Award within 30 days of the effective date.

  
Joseph A. Sickles  
Chairman and Neutral Member

  
J. S. Gibbons  
Carrier Member

  
Hugh Harper  
Organization Member

  
8/2/84  
Date