

PUBLIC LAW BOARD NO. 2366

AWARD NO. 70

CASE NO. 86

PARTIES TO DISPUTE:

Illinois Central Gulf Railroad

and

Brotherhood of Maintenance of Way Employees

STATEMENT OF CLAIM

1. The record of Washington Lowe was improperly closed out by the Carrier on May 10, 1984 as a consequence of his involuntary absence from work because of injury. (Organization File N-37-T-84; Carrier File 1650).
2. Claimant Washington Lowe shall be compensated for all wage loss suffered and returned to his former position with seniority and all other rights unimpaired.

OPINION OF THE BOARD

Claimant was away from duty because of an automobile accident. Because he was led to believe he could return to work in April, 1984 he bid on a trackman's position; however, he did not report to the position. Carrier removed his name from the seniority roster because he was absent without permission for seven (7) consecutive workdays - which constitutes abandonment under Rule 38.

The Employees argue that Rule 14(f) controls. That rule states that employees assigned to positions on bulletin must accept within five (5) days except in case of illness or physical disability.

The application of Rule 38 is not as clear cut as in certain prior cases relied upon by the Carrier; but none the less, we feel that Carrier's actions were correct.

When Claimant bid on the position he changed his employment status. Had he then notified the Company that his medical condition precluded a return to work, different considerations would control. But here, he never notified the Carrier and at the end of seven (7) days Carrier was required - by its agreement with the Organization - to consider that the Employee abandoned his position and resigned from service.

FINDINGS

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

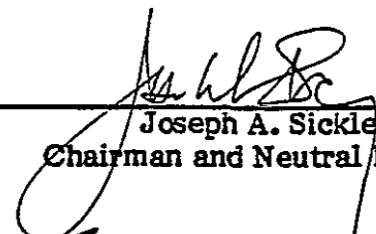
The parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended.

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



~~Harper~~ H. G. Harpfer
Organization Member



J. S. Gibbins
Carrier Member

12-17-84

Date