

PUBLIC LAW BOARD NO. 2366

AWARD NO. 9

CASE NO. 19

CASE #1268 MW

FILE: T-219-T-79

PARTIES TO DISPUTE:

Illinois Central Gulf Railroad

and

Brotherhood of Maintenance of Way Employees

STATEMENT OF CLAIM

"(1) The dismissal of Trackman W. E. McKinney, F. L. Johnson, R. E. Johnson and R. L. Knowles was without just or sufficient cause and extremely disproportionate to the offense with which charged.

(2) Each Claimant shall have his record cleared, restored to service with seniority rights unimpaired and with pay for all time lost - all in conformity with Rule 33(1)."

OPINION OF BOARD

The Claimants were notified of an investigation concerning asserted abandoning of position. Subsequent to the investigation, the Employees were dismissed from service.

The evidence shows that the Employees left their jobs based upon the fact that their "back-time" checks had not been issued.

While there is quite a bit of testimony concerning asserted permission to be absent; compelling reasons to leave duty; the fact that the gang was being abolished; failure to charge other employees; etc., the record clearly demonstrates to the Board that the Claimants made a determination to leave their duty for reasons which the Board does not feel are compelling, and thus there was an adequate basis to impose disciplinary action.

We have noted, nonetheless, that a fair degree of confusion surrounded the events in question, and to some degree, the confusion began to compound. While we are not inclined to ignore a Carrier's decision as to the amount of discipline to be imposed, we do feel that permanent dismissal may very well have been excessive in this case.

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.

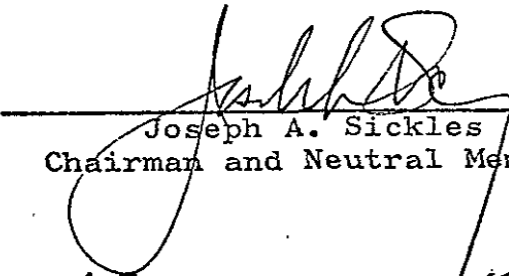
This Board has jurisdiction over the dispute involved herein.

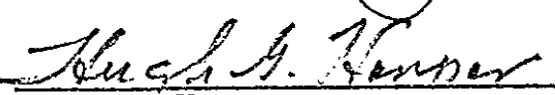
The parties to said dispute were given due and proper notice of hearing thereon.

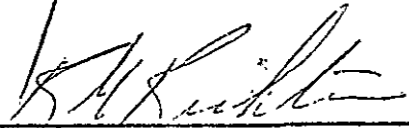
AWARD

1. The terminations are set aside. The Employees shall be restored to service with retention of seniority and other benefits, but without reimbursement for compensation lost during the period of the suspension.

2. Carrier shall comply with this Award within thirty (30) days of the effective date of this Award.


Joseph A. Sickles
Chairman and Neutral Member


Hugh G. Harper
Organization Member


R. G. Richter
Carrier Member

4/21/80
DATE