

Award No. 10  
Case No. 53

Public Law Board No. 2630

PARTIES  
TO  
DISPUTE:

Brotherhood of Maintenance of Way Employes  
and  
Baltimore and Ohio Railroad Company

STATEMENT  
OF  
CLAIM:

1. The dismissal of J. R. Gartner, Foreman Track, is excessive, arbitration and in violation of Rule 48(a) of the current agreement.
2. Carrier restore claimant to service with seniority and benefits unimpaired and compensate him for all time lost.

FINDINGS:

After attending a hearing on the morning in question, claimant was instructed by Supervisor Higgins to return to work at a derailment site to help put the yards back in service.

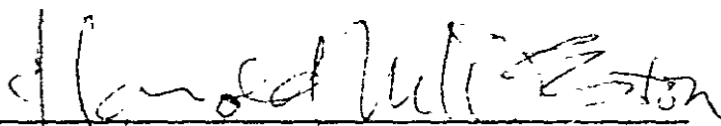
Claimant did return to the site as instructed, but shortly thereafter at about 11:45 a.m., left the scene with two or three employes under his supervision. Another foreman

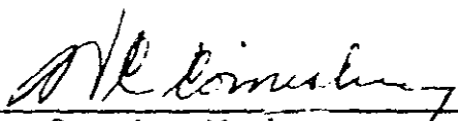
remained on duty there. Repairs had not been completed at the time of claimant's departure. His only explanation, as the record indicates, was that "the person I ride with had gotten sick and was leaving...and us other three that ride with him was leaving." There is no evidence that any family or other emergency prompted claimant to leave.

We find no persuasive basis in this record for substituting our judgment for that of Carrier in this intolerable situation. The fact that the employees who left with claimant may not have been disciplined does not call for a contrary result since they were under his supervision.

AWARD: Claim denied.

Adopted at Baltimore, Maryland, *October 12*, 1980.

  
Harold M. Weston, Chairman

  
Carrier Member

  
Employee Member