

Award No. 15  
Case No. 22

STATEMENT OF CLAIM

"1. That the dismissal of Valley Division Trackman T.L. Wiley was unjust.

2. That Claimant, T.L. Wiley be reinstated to service with seniority, vacation, all benefit rights unimpaired, pay for wage loss and/or otherwise made whole."

Upon the whole record, after hearing, the Board finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended, and that this Board is duly constituted under Public Law 89-456 and has jurisdiction of the parties and the subject matter.

The record indicates that Claimant, a relatively new employee, had no representation at the investigation. Further, his understanding of Carrier rules was, at best, sketchy. His total comprehension of the implications of the leave of absence (even due to on-the-job incurred injury) was minimal. The record also notes that for a period of some thirty-six days (from June 16, 1980 until July 21, 1980) Claimant did not have a leave of absence but one was prepared for him after the fact by Carrier's supervisor.

After careful review of the record, the Board is convinced that the penalty imposed in

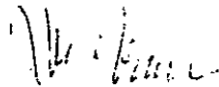
this instance, even though for a clear violation of Carrier rules by Claimant, was harsh and arbitrary. Dismissal under all the circumstances of Claimant overstaying a leave of absence incurred because of a work connected injury seems totally improper. On the other hand, Claimant must learn to live within the rules of Carrier and cannot be expected to be permitted to ignore them in the future. Thus, the Board concludes that Claimant shall be reinstated to his former position with all rights unimpaired but without pay for time lost as a more appropriate penalty for the infraction.

AWARD

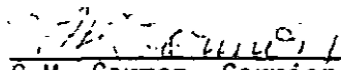
Claim sustained in part; Claimant will be reinstated to his former position with all rights unimpaired but without pay for time lost.

ORDER

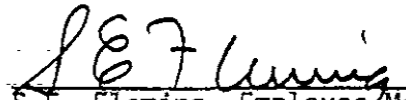
Carrier will comply with the Award herein within thirty (30) days from the date hereof.



I.M. Lieberman, Neutral-Chairman



G.M. Garmon, Carrier Member



S.E. Fleming, Employee/Member

January , 1982  
Chicago, IL