

PUBLIC LAW BOARD No. 3666

PARTIES Brotherhood of Maintenance of Way Employees  
TO  
DISPUTE: and  
Indiana Harbor Belt Railroad Company

STATEMENT Claim of V. M. Losano for reinstatement with full  
OF CLAIM: seniority and with compensation for all time lost.

FINDINGS: By reason of the Agreement entered into by and between the parties on June 13, 1984, and upon all of the evidence in the record, the Board finds that the parties hereto are respectively the employe and the carrier as defined in the Railway Labor Act, as amended, and that it has jurisdiction in this proceeding.

In a letter dated March 3, 1982, Claimant and a fellow employe, J. M. Moreno, were notified that an investigation will be held to determine their responsibility, if any, for siphoning gasoline from a Carrier owned vehicle into two (2) five (5) gallon gas cans and then pouring that gasoline into the gas tank of Losano's automobile. This incident occurred on March 1, 1982. An investigation was held on March 9, 1982. Claimant and Moreno were thereafter dismissed from service. Moreno was reinstated to service on August 16, 1984.

For reasons that do not appear in the record, Moreno was reinstated, presumably without compensation for lost time since Employees withdrew his claim. It is a well established principle that an employer must apply the same considerations to all employees involved in the same incident that justifies discipline.

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This Claimant is entitled to the same consideration for reinstatement as that given to Moreno. For this reason, the Board finds that the Claimant V. M. Lasono shall be reinstated as an employe of the Carrier with full seniority preserved and unimpaired, but with no compensation whatsoever for lost earnings from the date he was held out of service or the date of his dismissal, whichever is earlier, to the date of his reinstatement.

AWARD

Claim sustained in accordance with the findings.

  
DAVID DOLNICK, Chairman and Neutral Member

  
J. K. BEATTY, Carrier Member

  
WILLIAM E. LA RUE, Employe Member

DATED: Jan. 2. 1955