

Public Law Board No. 3794

PARTIES
TO
DISPUTE:

Brotherhood of Maintenance of Way Employees
and
CSX Transportation, Inc.

STATEMENT
OF
CLAIM:

The dismissal of Foreman H. D. Hiers was without just cause and claimant shall be reinstated with seniority and all other rights unimpaired and compensation for all wage loss.

FINDINGS:

Claimant, a section gang foreman with a good record of service, was instructed by Roadmaster Street to make the necessary repairs to a damaged switch at one of Carrier's customer's facilities and to keep the time in order to bill the customer, Southern Materials Corporation, for the work.

Claimant took two of the six men assigned to his gang to the switch and repaired it in less than an hour. He then went to Southern's office and spoke to Mrs. Stroup, an office worker there, and obtained a voucher from her for \$110 in payment for the work. The check was made

payable to claimant and apparently covered his time (\$20 an hour) and the services of his crew (\$15 for each of the six men). Claimant cashed the check and told Mr. Street that there would be no charges for the switch repairs since little work time was involved.

Carrier cited in its submission a number of representations made by claimant to Mrs. Stroup when he obtained the payment. However, Mrs. Stroup was not called as a witness and we will not consider the hearsay.

However, it is quite apparent from claimant's testimony that he knew that his actions were improper. He promised that "any such incident won't never happen again."

That claimant was extremely disloyal to his employer on this occasion is entirely clear. He injured the reputation of Carrier's employees and impaired good will.

Claimant's 20 years of fine service is certainly entitled to careful consideration and it may be that Carrier will elect to give him another chance to show that he can continue to be counted on for responsible service, albeit in a lower job classification. However, that is for Carrier to decide.

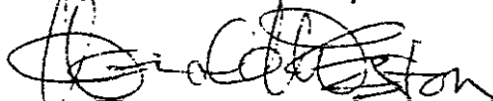
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On the basis of this record, our Board is not in a valid position to set aside or reduce the discipline. It is not unwarranted.

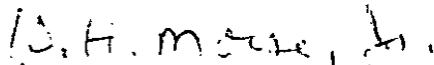
AWARD:

Claim denied.

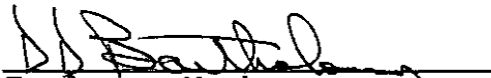
Adopted at Jacksonville, Florida, March 17, 1987.



HAROLD M. WESTON, Chairman



Carrier Member



Employee Member