

BEFORE PUBLIC LAW BOARD NO. 4633

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
and
INDIANA HARBOR BELT RAILROAD COMPANY

Case No. 1

Dispute: Claim of the Brotherhood:

- (1) The dismissal of Trackman Robert Gillispie was without just and sufficient cause, based on unproven charges.
- (2) Claimant Gillispie shall be reinstated to service without loss of compensation, seniority rights, vacation, all other benefits and privileges he enjoyed prior to his dismissal.

Findings:

Claimant Robert Gillispie was a trackman employed by the Carrier at Hammond, Indiana. On December 8, 1986, Claimant was charged and notified to report for an investigation:

to determine the facts and your responsibility, if any, in connection with your failure to report for duty from October 17, 1986, to present date and for your failure to respond to instructions given by your superior officer on November 21, 1986.

The investigation was held on January 7, 1987, and as a result, Claimant was dismissed from service. The Organization thereafter filed a claim on Claimant's behalf, challenging his dismissal.

This Board has reviewed the evidence and testimony in this case and we find that there is sufficient evidence in the record to support the finding that the Claimant was guilty of being absent from his job without the authority of his supervisors from October 17, 1986, through the date of the Carrier's investigation on January 7, 1987. The record is clear that although the Carrier sent letters to the Claimant, he never responded to any of them personally, but had some other person make a request for a leave of absence. The Claimant did

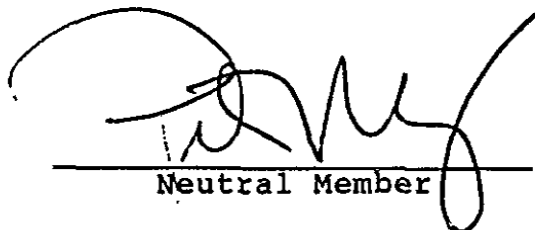
not appear as instructed on more than one occasion, therefore was clearly in violation of the Carrier's rules. There is no documented reason for his prolonged absence. Consequently, he was in violation of Rule T and the Carrier's policy on absences.

Once this Board has determined that there is sufficient evidence in the record to support the guilty finding, we next turn our attention to the type of discipline imposed. This Board will not set aside a carrier's imposition of discipline unless we find its action to have been unreasonable, arbitrary or capricious.

Although the Claimant had twelve years of service with the Carrier, it is clear that his wrongdoing in this case was so serious as to be sufficient basis for the Carrier to terminate his employment. This Board finds that the action taken by the Carrier was not unreasonable, arbitrary or capricious. Therefore, the claim must be denied.

AWARD

Claim denied.



Neutral Member



Carrier Member



Organization Member

Date: 7.27.90