

BEFORE PUBLIC LAW BOARD NO. 4633

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

Case No. 7

Dispute: Claim of the Brotherhood:

- (1) The dismissal of 10 days deferred suspension assessed Track Laborer Littleton Jackson, Jr. as a result of an investigation held on July 8, 1987, was too severe and that this discipline be removed from his record.

Findings:

Claimant L. Jackson, Jr. was employed as a trackman by the Carrier. On May 26, 1987, Claimant was directed to attend an investigation:

to determine the facts and your responsibility, if any, in connection with excessive absenteeism.

The investigation was held on July 8, 1987, and as a result, Claimant was assessed discipline in the form of a 10 day suspension. The Organization filed a claim on Claimant's behalf, challenging his discipline.

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 failing to report for work or offer any excuse for his absence 24 of 31 working days during the period April 11, 1987 through May 23, 1987. Moreover, the Claimant failed to appear at the investigation held on July 8, 1987, to offer any excuse for his actions. Consequently, he was properly found guilty.

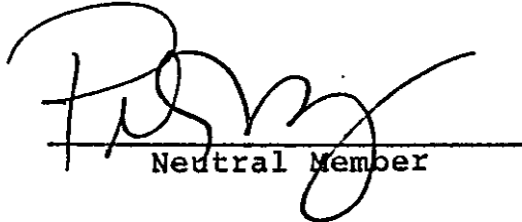
Once this Board has determined that there is sufficient evidence in the record to support the guilty finding, we next turn our

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.

The Claimant in this case was guilty of serious wrongdoing and the Carrier was lenient in assessing him only a ten day deferred suspension. This Board cannot find that the action taken by the Carrier was excessive. Therefore, the claim must be denied.

AWARD

Claim denied.



Neutral Member



Carrier Member



Organization Member

Date: 7-27-90