

CASE NO. 3
AWARD NO. 3

SPECIAL BOARD OF ADJUSTMENT NO. 716

BROTHERHOOD OF RAILROAD TRAINMEN

VS

THE HOUSTON BELT & TERMINAL RAILWAY COMPANY

STATEMENT OF CLAIM: Yardman M. E. Henley was unjustly dismissed April 28, 1966, and that he now be returned to service with pay for time lost.

FINDINGS: Claimant was dismissed from the service of this Carrier by notice dated April 28, 1966, following a formal investigation held April 15, 1966, and concluded on April 19, 1966, on a charge of "...failure to perform your duties in a safe and efficient manner as it appears that you are accident-prone and a safety hazard to yourself and your fellow employees by sustaining an unusual amount of personal injuries since February 5, 1951."

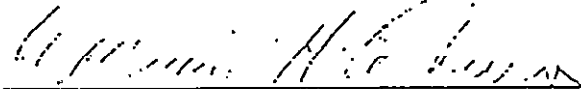
The Board has given thoughtful consideration to the Employees' allegations of procedural errors in the conduct of the investigation which are said to have prejudiced the Claimant's right to a fair and impartial trial. It is, however, not necessary to determine the validity of those allegations at this time because this entire record is devoid of any evidence of probative value which would support a finding of guilty as charged.

The only evidence adduced by the Carrier at the investigation is that Claimant during the period February 5, 1951, to and including February 7, 1966, had incurred some 17 personal injuries most of them minor in character, and none of them shown to have resulted in injury to others or damage to property. Clearly this record of injuries to the Claimant alone spread over a period of 15 years' service is insufficient to support the specified charge quoted above. Discipline of dismissal from service based upon a finding of guilt under the charge made against this Claimant must be set aside for lack of evidentiary support.

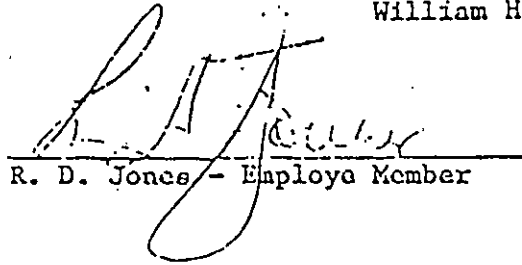
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AWARD: Claim sustained.

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William H. Coburn - Chairman



R. D. Jones - Employe Member



R. H. Anderson - Carrier Member

Dated at Houston, Texas, this 8th day of December, 1966.