

Parties to Dispute: { Brotherhood Railway Carmen of the United States
and Canada
{ Southern Pacific Transportation Company

1. That under the current Agreement, Carman George Hathaway was unjustly deprived of his rights and compensation when he was improperly dismissed from service on January 6, 1978 after 16 years service with the Carrier, as a result of investigation held December 29, 1977.
2. That accordingly, the Southern Pacific Transportation Company be ordered to reinstate Carman George Hathaway to service at Sacramento, California in accordance with the provisions of Rule 39, and that he be made whole for all vacation rights, pension benefits including Railroad Retirement and Unemployment Insurance, and any other benefits he would have earned during the time held out of service.

Claimant had been summoned to attend an investigation, at which he was the accused, on the claim date in question, October 14, 1977. As his appearance was not required until 9:30 AM, Carrier expected him to report for duty as usual. According to the Carrier, it has long been the practice in the Mechanical Department, of which Claimant was a part, that when required to attend an investigation, the employee under charge goes to work as usual, is excused from work to attend the hearing and is expected to return to work following adjournment of the proceedings. This procedure the Claimant did not follow on the morning of October 14, 1977.

Instead, according to his testimony at the December 29, 1977 hearing, Claimant attempted to call the Carrier several times at about 7:00 AM that morning but claims both that no one answered the phone and that the line was busy. Claimant ultimately appeared at the investigation site which was also his work site at 8:30 AM, but according to his own testimony, he was not dressed in work clothes, nor did he clock in to work, nor did he inform any of his supervisors that he would be absent from duty prior to the commencement of the investigation.

Claimant was in attendance at the October 14, 1977 hearing in the morning but failed to reappear at the hearing in the afternoon following a luncheon recess. Claimant's representative at the hearing informed the Hearing Officer that Claimant had left the site to begin his scheduled vacation. However, according to the Carrier, Claimant was not scheduled to commence his vacation until three days later on October 17, 1977. Furthermore, Claimant did not notify any Carrier Officer he was leaving, nor did he clock out from work.

Claimant testified he was not aware he had to report to work on the claim date in question as he was there only to attend the investigation. Following this same line of reasoning, Claimant contends he was not aware he had to inform any Carrier Officer he was leaving as he did not clock in to work.

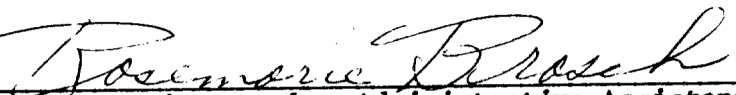
In reviewing the evidence and Claimant's past discipline record, this Board determines Claimant's testimony is not credible. Claimant's past discipline record reflects he has attended several investigations over his past years of service with the Carrier and therefore on this basis alone he would have been knowledgeable as to the practice in effect in the Mechanical Department referenced above. Further, Claimant's own testimony regarding his attempts to telephone the Carrier on the morning in question serves to discredit his later testimony that he did not clock in to work because he was there only to attend the investigation. It is obvious to this Board that Claimant's attitude toward work is highly deficient and sorely lacking. We further believe that in absenting himself from the investigation on the claim date in question prior to the completion of the hearing of which he was the accused, is yet additional evidence of the cavalier view Claimant has of his job. Quite frankly, if the Claimant does not care about or value his job as is supported by the preponderance of evidence before us, then we are not about to feel any differently and therefore we shall deny the claim.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Executive Secretary
National Railroad Adjustment Board

By 
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 21st day of January, 1981.