

The Second Division consisted of the regular members and in addition Referee James F. Searce when award was rendered.

Parties to Dispute: { International Brotherhood of Electrical Workers
{ Southern Pacific Transportation Company (Pacific Lines)

Dispute: Claim of Employees:

1. That under the current Agreement, Mechanical Department Electrician R. E. Lewis was unjustly treated when he was dismissed from service on June 19, 1980, following investigation for alleged violation of portions of Rule 810 of the General Rules and Regulations of the Southern Pacific Transportation Company (Pacific Lines). Said alleged violation occurring on April 28, 1980, from approximately 10:00 p.m. to 12:00 p.m.
2. That accordingly, the Southern Pacific Transportation Company (Pacific Lines) be ordered to:
 - (a) Restore Electrician R. E. Lewis to service with all rights unimpaired including service and seniority, loss of wages, vacation, payment of hospital and medical insurance, group disability insurance, railroad retirement contributions, and loss of wages including interest at the rate of six percent (6%) per annum.

Findings:

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employe within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

Claimant was an electrician on the 3:30 a.m. - Midnight tour at the Carrier's Sacramento, California Locomotive Works on the date of events germane to this case -- April 28, 1980. On that date, Claimant had been assigned to repair duties on a locomotive, but could not be found when his supervisor sought him about 10:00 p.m. Other employes had to be assigned such duties. At Midnight, when time cards were turned in, he still was not available and did not turn in his time. A hearing was held June 2, 1980 and, as a result, the Claimant was dismissed from service.

Without setting out details in that regard, suffice it to say that the manner in which the charge was brought against the Claimant and the hearing was conducted

were worthy of complaint. It is also noted that the Claimant's prior record of discipline was not the subject of review at the hearing but was raised in conjunction with the assessment of discipline in this case. There is sufficient evidence to support a substantial disciplinary action against the Claimant, but we conclude that the extent issued was excessive given the aforementioned shortcomings in its execution. We remind the Carrier that the burden rests with it in a case such as this. Award is ordered accordingly.

A W A R D

The Claimant will be offered an opportunity to return to work immediately; the Carrier may require a return-to-duty fitness examination at its own expense if deemed necessary. The Claimant shall be made whole for lost wages at the appropriate straight-time rate for one year preceding his return to duty, less offsets of any and all compensation he may have received for that period. He is to make available to the Carrier any and all records of earnings in that regard and is put on notice that his failure to fully disclose such earnings or his refusal to do so could result in his termination. His seniority shall be reinstated intact.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Acting Executive Secretary
National Railroad Adjustment Board

By Rosemarie Brasch
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 13th day of July, 1983.