

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22815
Docket Number MW-22863

Paul C. Carter, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(Southern Pacific Transportation Company
(Texas and Louisiana Lines

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood that:

(1) The dismissal of Machine Operator J. A. Sterrett III was without just and sufficient cause and was arbitrarily and capriciously imposed (System File MW-78-94).

(2) Machine Operator J. A. Sterrett III shall be afforded the remedy prescribed in Article 14(f)."

OPINION OF BOARD: Claimant was employed as a machine operator. On April 4, 1978, he was notified by Carrier's Manager, Work Equipment:

"For absenting yourself from your employment since January 20, 1978 without proper authority, which is in violation of Rule 810 of General Notice, General Rules and Regulations of the Maintenance of Way and Structures of the Southern Pacific Transportation Company, you are dismissed from the service of the Company.

Let me have any Company property you may have in your possession."

The claimant requested a hearing which was scheduled to begin "at 9:00 A.M. on Tuesday, May 2, 1978, in Office of Division Engineer, 1174 East Commerce St., San Antonio, Texas."

The hearing was held as scheduled, beginning at 9:00 A.M., May 2, 1978. Claimant was not present at the hearing, although the record shows that he had been in the Division Engineer's office, San Antonio, at 8:40 A.M., on May 2, 1978, but prior to the beginning of the hearing he elected to leave, and was not present to testify at the hearing. The hearing was conducted in his absence and on May 8, 1978, he was advised by the Manager, Work Equipment, that his dismissal was sustained.

Claimant's failure to attend the hearing for 9:00 A.M., May 2, 1978, was at his peril.

On the record before it, there is no proper basis for the Board to interfere with the discipline imposed by the Carrier.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

That the Carrier and the Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Paulson
Executive Secretary

Dated at Chicago, Illinois, this 18th day of April 1980.

MAY 10 1980