

PUBLIC LAW BOARD NO. 1795

Award No. 20
Case No. 20

PARTIES Southern Pacific Transportation Company (Pacific Lines)
TO and
DISPUTE Brotherhood of Maintenance of Way Employees

STATEMENT "1. That the Carrier violated the Agreement when on January 7, 1977 it
OF CLAIM suspended Machine Operator Mr. R.F. Richardson, pending formal hearing and as a result thereof the Carrier dismissed Claimant Richardson on charges not sustained by the hearing record, said action being unduly harsh, unjust and in abuse of discretion.

2. That Carrier reinstate Claimant R.F. Richardson to the service of the Carrier with seniority and all other rights restored and compensate him for all wage loss suffered beginning January 7, 1977 and continuing until he is reinstated."

FINDINGS

Upon the whole record, after hearing, the Board finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended, and that this Board is duly constituted under Public Law 89-456 and has jurisdiction of the parties and the subject matter.

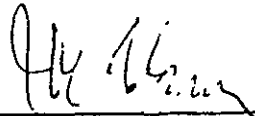
Claimant had been employed by Carrier for approximately five years and three months at the time of the incident involved in this dispute. On January 7, 1977 he had been assigned as a Track Laborer to a gang which was being re-established. On the day in question, Claimant was operating an automotive crane when he was instructed by his foreman to leave that piece of equipment and operate a saw. There ensued an argument with respect to Claimant's ability to operate the crane and, according to Carrier, Claimant refused to operate the power saw and used profane language in the course of his refusal whereupon the foreman removed him from service and subsequently, after investigation, he was dismissed.

The sole issue in this dispute is whether or not there was sufficient evidence at the in-

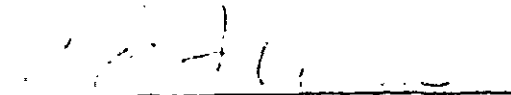
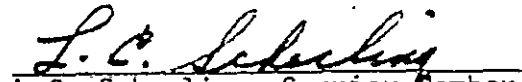
circumstances there can be no finding but that Carrier's conclusion must be upheld.

AWARD

Claim denied.



I.M. Lieberman, Neutral Member


S.E. Fleming, Employee Member
L.C. Scherling, Carrier Member

San Francisco, California

June 27 , 1979