

Award No. 12

Case No. 12

Docket No. 77-16

Parties Brotherhood of Maintenance of Way Employes

to and

Dispute Southern Pacific Transportation Company
Texas and Louisiana Lines

Statement of Claim: Claim of B of M of W E and request that "Mr. A. Solomon, Jr., be reinstated to his former position with pay for all time lost and with vacation, seniority, insurance and all other rights unimpaired. Also that his record be cleared of this charge.

Findings: The Board finds, after hearing upon the whole record and all evidence, that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, that this Board is duly constituted by Agreement dated March 23, 1977, that it has jurisdiction of the parties and the subject matter, and that the parties were given due notice of the hearings held.

Claimant, a system machine operator headquartered at Houston, Texas, was dismissed from Carrier's service, November 23, 1976, for falsification of his Personal Expense Account.

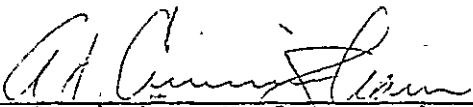
The Board finds that Claimant was accorded due process. The record provides sufficient competent and probative evidence to support Carrier's conclusions as to Claimant's culpability. It reflects that Claimant had, on numerous occasions, showed personal expenses at Woodville and Kountze while, in fact, he stayed and put in lodging receipts for a room at Beaumont. The subsequent long investigation disclosed that the receipts turned in by Claimant were signed in the name of "Mrs. Linda Tomkins" and "Tenolia Steward." These were the names of his foster child and his wife from whom he was estranged.

The Board would not otherwise interfere with the discipline assessed but it did find circumstances which serve to mitigate the discipline imposed. It cannot conclude that the employee was dishonest. He was well-meaning but wrong. The instructions covering the expense form involved are vague and the expense forms leave much to be desired. They should be revised to be more specific and thus avoid a situation of this type. He was away

from home and otherwise entitled to a lodging expense. He stayed in a private home. The existing instructions do not specifically prohibit what occurred. Claimant's actions, although wrong, were not wilfully perpetrated to defraud Carrier. The rates that Claimant paid were lower than the prevailing rates at Kountze and Woodville. The majority here concludes that Claimant should be reinstated to service, but without pay for the time held out of service and that the instructions covering expenses be rewritten in a clarifying manner so that, if an employee earns expense entitlement and claims such entitlement in a manner not inconsistent with the new construction, he will not then be charged with falsifying his expense account.

Award: Claim disposed of as per findings.

Order: Carrier is directed to make this Award effective within thirty (30) days fo date of issuance shown below.


A. J. Cunningham, Employee Member


R. W. Hickman, Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member

Issued at Falmouth, Massachusetts, September 7, 1977.