

PUBLIC LAW BOARD NO. 1925

Award No. 9

Case No. 9

File No. MW-76-10

Parties Brotherhood of Maintenance of Way Employees

to and

Dispute Southern Pacific Transportation Company
-Texas and Louisiana Lines-

Statement of Claim: 1. Carrier violated the effective Agreement when on July 27, 1976, it failed to afford a fair and impartial hearing to Welder R. A. Benavidez, as per his request of July 1976, following dismissal notice mailed to him June 29, 1976.

2. Claimant R. A. Benavidez be reinstated to his former position with pay for actual time lost, and with seniority, vacation and other rights unimpaired.

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 hearing held.

Claimant, a Welder on Gang 15, Alpine District, was dismissed from service on June 29, 1976, for violation of Rules M-810 and M-811 because of his being absent without authority on June 21, 22, 23, 24 and 25, 1976. The investigation request was granted and Carrier concluded therefrom that Claimant was guilty as charged.

Said Rules in pertinent part provide:

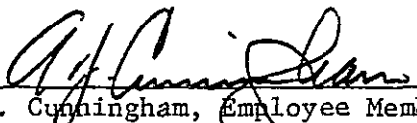
"M-810 Employees must report for duty at the prescribed time and place,... They must not absent themselves from their employment without proper authority... Continued failure by employees to protect their employment shall be sufficient cause for dismissal."

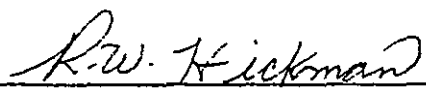
"M-811 Employees must not absent themselves from their places..."

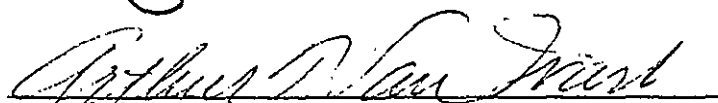
Claimant was accorded due process with no substantive error to preclude a review of the merits of his case. The investigation provided sufficient evidence to support Carrier's conclusion as to Claimant's culpability in violating Rules M-810 and M-811. He so admitted.

There is no reason in this record to cause change in the discipline imposed. In fact, Claimant had been dismissed July 30, 1975, for the same Rules violation and he was reinstated January 5, 1976.

Award: Claim denied.


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.