

Award No. 8

Case No. 9

Docket No. MW-78-8

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 it unjustly dismissed Mr. J. H. Thomas on October 28, 1977, and failed to reinstate him after his hearing on November 23, 1977.
2. Claimant Thomas be reinstated to his former position, with pay for all time lost and with vacation, seniority and all other rights unimpaired.

Findings The Board, after hearing upon the whole record and all evidence, finds 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 May 22, 1978, 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 B&B carpenter, was dismissed from service by letter, dated October 28, 1977, for his continued failure to protect his employment and for being absent without authority on October 27 and 28, 1977, which was in violation of Rule 810 of the Rules and Regulations of the Southern Pacific Transportation Company.

Claimant requested a hearing which was granted and held November 23, 1977. As a result thereof Carrier concluded, on the evidence adduced, that Claimant was guilty as charged. He was so advised by letter of November 25, 1977.

Rule 810 in pertinent part provides:

"Employees must report for duty at the prescribed time and place, remain at their post of duty, and devote themselves exclusively to their duties, during their tour of duty. 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...."

Claimant did not appear at the investigation. The proceedings were delayed for half an hour to permit Claimant to appear. The hearing officer asked the employee representative if they were prepared to proceed, and, on the basis of the affirmative answer, said hearing was held in absentia.

This record reflects that Claimant had been warned on several occasions as to his failure to obtain permission before being absent. Apparently such warning had not been effective. Claimant had been in service for 8 months. The Board, as in Third Division Award 16860 (McGovern), finds that:

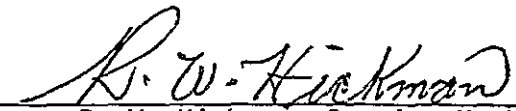
"Claimant was charged with being absent without leave. A trial was eventually held and Carrier, by virtue of the evidence adduced, found him guilty and ordered his dismissal from the service. It is unquestioned that the trial or hearing was conducted in a fair and impartial manner and that there was substantial evidence presented to warrant Carrier's findings and Claimant's subsequent discharge from the service. We cannot say that Carrier acted in such an unjust, unreasonable, and arbitrary manner as to constitute an abuse of discretion. We will accordingly deny the claim."

The Board finds no merit to this case. It will be denied.

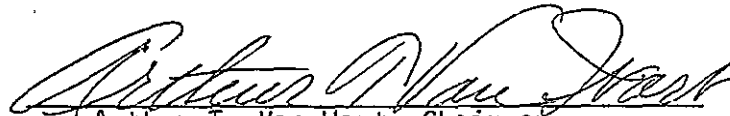
Award Claim denied.



M. A. Christie, Employee Member



R. W. Hickman, Carrier Member



Arthur T. Van Wart, Chairman
and Neutral Member

Issued at Wilmington, Delaware, March 31, 1979.