

PUBLIC LAW BOARD NO. 2182

Award No. 9

Case No. 10

Docket No. MW-78-14

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 Lafayette Division Track Laborer Larry Chatman was unjustly dismissed on November 24, 1977.
2. Claimant Larry Chatman be reinstated to his former position, with pay for all time lost, and with seniority, vacation 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 Track Laborer was dismissed from service by letter of November 23, 1977 which read as follows:

"You are dismissed from the service of Southern Pacific Transportation Company for being absent from your employment without authority on November 18, 1977, which is violation of that portion of Rule 810 of General Notice, General Rules and Regulations of Southern Pacific Transportation Company, which reads as follows:

'Employee 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....."

Claimant requested and was granted a hearing on December 16, 1977. Carrier concluded based on the evidence adduced thereat that Claimant Track Laborer was guilty as charged and he was so notified.

The Board finds that Claimant was accorded due process.

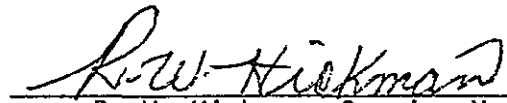
There was sufficient competent credible and probative evidence adduced to show that Claimant was guilty as charged. The record reflects that Claimant, who had been employed some 14 months, had been repeatedly warned concerning his propensity for absenteeism. He has been disciplined several times. In fact, Claimant was dismissed for violation of Rule 810 and, as an act of leniency, was reinstated five months later on October 3, 1977. Here, in a period of less than two months he was back again in the same difficulty.


Claimant's lack of interest in protecting his job provides the basis for our conclusion that he does not desire to work for the Southern Pacific Transportation Company. The Board has not means by which it can supply that which is lacking in Claimant, to wit - interest in protecting his job.

This Claim 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.