

PUBLIC LAW BOARD NO. 2439

Award No. 111

Case No. 111

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

STATEMENT "1. That the Carrier violated the provisions of the
OF CLAIM: current Agreement when in letter dated April 15,
1986 it dismissed Truck Driver A. W. Nunn from
its service on the basis of unproven charges,
said action being in abuse of discretion.

2. Carrier shall now exonerate Mr. Nunn of all
charges and reinstate him to his former position
with the Carrier with seniority and all other
rights restored unimpaired and compensation for
all wage loss suffered.

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 was charged with insubordination, being quarrelsome,
hostile and profane behavior on March 21, 1986 in violation of
Carrier's rules. Following an investigative hearing he was found
guilty of the charges and dismissed from service.

The record indicates that on March 21, 1986 at approximately
6:50AM, Claimant came to the office of the Roadmaster and asked

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(demanded) in loud and boisterous fashion that he be given the results of the prior investigation in which he was suspended for a ninety day period. (See Award No. 110 of this Board.) He was asked to calm down and then the Assistant Roadmaster handed him the papers involved and asked him to sign them. Instead of signing a copy and returning it to the Assistant Roadmaster, Claimant pocketed the papers and left the office at which time the Assistant Road Master again advised him that he needed a copy back, to which Claimant responded that he should "Go fuck yourself!" The record supports this version of what transpired on March 21.

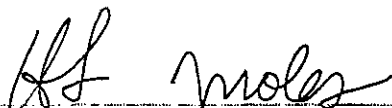
Based on the evidence at the investigation, Claimant's past record and his conduct at the investigation which necessitated the presence of a security officer, Carrier was apparently within its rights in determining that Claimant was guilty of the charges and should be dismissed. The Board believes that there is no basis for modifying this decision since the evidence amply supports Carrier's conclusion. The claim must be denied.

AWARD

Claim denied.



I. M. Lieberman, Neutral-Chairman

H. L. Moles,
Carrier MemberC. F. Foose,
Employee Member

San Francisco, California

~~May~~, 1988

June 3