

PUBLIC LAW BOARD NO. 2439

Award No. 156
Case No. 156

PARTIES
TO
DISPUTE:

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

STATEMENT
OF CLAIM:

"That the Carrier violated the Current Agreement when it dismissed Mr. T. L. Lockfield from its service, said action being excessive, unduly harsh and an abuse of discretion.

"That the Carrier reinstate Claimant to his former Carrier position with seniority and all other rights restored unimpaired, with pay for all loss of earnings suffered, and his record cleared of all charges."

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 had entered Carrier service on May 8, 1984. His last day of appearance at work was on August 9, 1985 and thereafter he was absent without authority. Carrier notified Claimant by letter dated June 24, 1987 of an investigation with respect to his absence from August 9, 1985 through June 24, 1987. The hearing was postponed by agreement between the Organization and the Carrier and was finally rescheduled for October 1, 1987. A notice of the hearing was sent to Claimant by Certified Mail but was returned to the Carrier marked "Unclaimed". Claimant did not appear at the hearing but was represented by an Officer of the Organization. Further there was no objection indicated in the record of the hearing with respect to continuing in his absence.

The record revealed that Claimant indeed was absent for the period charged by Carrier without authority. There is no indication whatever of his expression of interest or desire in returning to his job. Nor has there been any contact with him by either Carrier or Organization since his initial absence.

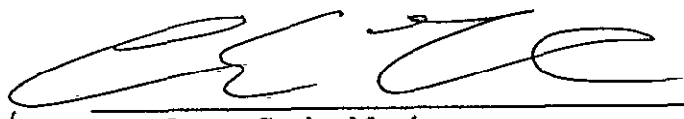
Carrier's rules are clear and unequivocal with respect to absence without authority and in this instance it is obvious that Claimant did indeed violate Carrier's Rules and Carrier was correct in its assessment of the penalty.

AWARD

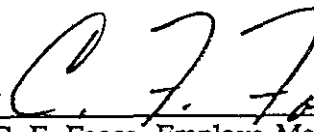
Claim denied.



I. M. Lieberman, Neutral-Chairman



R. J. Stuart--Carrier Member



C. F. Foose--Employee Member

San Francisco, California
August 31, 1989