PUBLIC LAW BOARD NO. 2439

PARTIES
TO
DISPUTE:

Brotherhood of Maintenance of Way Employees

and

Southern Pacific Transportation Company
(Western Lines)

STATEMENT OF CLAIM:

1. That the Carrier violated the current Agreement when it dismissed Mr. D. Ferguson from his service, said action being excessive, unduly harsh and in abuse of discretion.

2. 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.
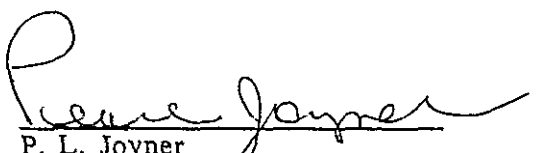
The record indicates that Claimant was terminated on August 5th, 1987, based on the fact that he had been absent from work since June 20th, 1987, without proper authority. Following a request for a hearing by Claimant, and after the hearing was accorded, Carrier concluded that its original termination was appropriate and the discharge was reaffirmed.
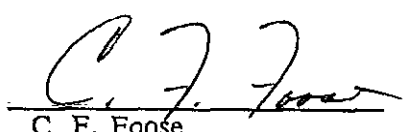
The record of the investigation reveals that Claimant admitted, without question, that he had been absent without authority, starting June 22nd, 1987, up until the time of notification of his termination on August the 5th. The only rationale for this absenteeism was the fact that he was having personal family problems. The record further reveals that he had been suspended on two prior occasions, as well as being accorded other discipline, for violations of the same rule. Based on the record, and the clear evidence of Claimant's violation of Carrier's Rule 604, the Board finds no basis for reversing Carrier's termination and the claim must be denied.

AWARD

Claim denied.

I. M. Lieberman, Neutral-Chairman

P. L. Joyner
Carrier Member

C. F. Foose
Employee Member

San Francisco, California
May 20 , 1991