

PUBLIC LAW BOARD NO. 2439

Award No. 42

Case No. 42

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

STATEMENT "1. That the Carrier violated the provisions of the current Agreement  
OF CLAIM when it suspended Shovel Helper J.M. Hernandez from service for a period of fifteen (15) calendar days commencing April 1, 1981 through April 15, 1981 inclusive on charges not sustained within the hearing record, said action being excessive, unduly harsh and in abuse of discretion.

2. That Claimant now be compensated for all time lost from his assigned position as Shovel Helper commencing April 1, 1981 through April 15, 1981 and the alleged charges placed on his personal record be expunged therefrom."

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.

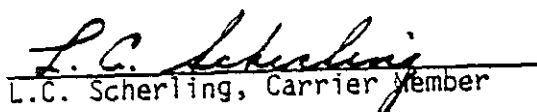
Claimant herein, the son of the Claimant involved in Case No. 40 of this Board, was in the same situation as those described in Awards No. 40 and 41 of this Board. He too was in the group of three men who was charged with violation of Rule "G" as indicated in the earlier Awards and was assessed, following a hearing, a fifteen calendar day suspension. As in the earlier Awards, there can be no question with respect to Claimant's guilt of the charge. Petitioner's argument that the penalty was excessive in view of the fact that the infraction occurred following quitting time has been considered by the Board in the earlier cases and the conclusion reached herein is identical: that the penalty was not excessive and was appropriate under the circumstances. Thus, this claim also, for the reasons indicated in the earlier Awards, must be denied.

AWARD

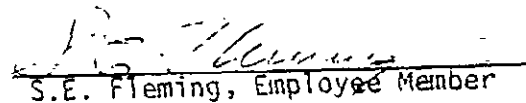
Claim denied.



I.M. Lieberman, Neutral-Chairman



L.C. Scherling, Carrier Member



S.E. Fleming, Employee Member

San Francisco, CA  
March 10, 1982