

PUBLIC LAW BOARD NO. 2444

Award No. 38

Case No. 51

Docket No. MW 80-112

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 System Machine Operator A. P. Jackson was unjustly dismissed on April 30, 1980.

2. Claimant Jackson shall not be reinstated to his former position with pay for all time lost, seniority, vacation and all other rights unimpaired; and that this charge be stricken from his record.

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 July 19, 1979, that it has jurisdiction of the parties and the subject matter, and that the parties were given due notice of the hearing held.

Claimant, a System Machine Operator, had been employed by Carrier for almost two years. He was advised, under date of May 7, 1980 as follows:

"You were absent from your job assignment without proper authority on April 29, 1980 which is in violation of Rule M810. You were given written notice on Thursday, April 24 or Friday, April 25, 1980 to turn in your timeroll on the morning of April 28, 1980 without fail. You ignored those instructions and did not turn in your timeroll. Failure to follow instructions is in violation of Rule M810 and 801 of the General Rules and Regulations for the Maintenance of Way and Structures quoted in part as follows:

Rule M810.

'Employees must report for duty at the prescribed time and place....They must not absent themselves from their employment without proper authority...'

Rule 801: :

'Employees will not be retained in the service who are.... insubordinate...'

For your violation of Rules M810 and 801, you are dismissed from the service of the Southern Pacific Transportation Company..."


The Board finds that Claimant was accorded the due process to which entitled under the discipline rule.

There was sufficient evidence adduced to support the decision reached by Carrier.

The Claimant had been dismissed twice before for violations of Rule M810. Reinstating Claimant to service obviously had no corrective affect. In the circumstances the discipline is found to be reasonable. This Claim will be denied.

AWARD: Claim denied.


M. A. Christie, Employee Member


C. B. Goyne, Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member

Issued at Wilmington, Delaware, May 29, 1982.