

PUBLIC LAW BOARD NO. 2444

Award No. 39

Case No. 52

Docket No. MW 80-113

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 Laborer of Larry B. Smith was unjustly dismissed on May 16, 1980.

2. Claimant Smith shall be reinstated to his former position with pay for all time lost, vacation, seniority and all other rights unimpaired, and his record be cleared of this charge.

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 track laborer on Section Gang 31, had been employed by Carrier for about three (3) years. He was advised under date of May 19, 1980, as follows:

"Mr. Smith, you are dismissed from the Southern Pacific Transportation Company for being absent from your place of employment on May 2, May 12, May 16, 1980 as track laborer, Lafayette Division, without proper authority, which is in violation of Rule 810 and 811 of General Rules and Regulations of General Notice Effective April 1, 1978, of the Southern Pacific Transportation Company, which reads as follows:

'Rule 810. Employees must report for duty at prescribed time and place, remain at their post of duty, and devote themselves exclusively to their duties during their tour

of duty. They must not absent themselves from their employment without proper authority....'

'Rule 811. Employees must not absent themselves from their place, substitute others or exchange duties without proper authority...'

Claimant requested and was granted a hearing. As a result thereof it was concluded that the discipline was sustained.

The Board finds that Claimant was accorded the due process to which entitled under this Rule.

There was sufficient evidence adduced to support Carrier's conclusion as to Claimant's guilt. Claimant presented alleged medical evidence written on Veterans Administration Health Care Facility paper. Carrier investigated same with the VA and was advised that

"We have no record of Mr. Smith being treated 5/2/80-
of 5/12/80."

In the circumstances the Board finds that in view of Claimant's record and the record in this case that the discipline assessed was not unreasonable. 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