

PUBLIC LAW BOARD NO. 2444

Award No. 5

Case No. 8

Docket No. MW-78-122

Parties Brotherhood of Maintenance of Way Employees
to and

Dispute: Southern Pacific Transportation Company
(Texas and Louisiana Lines)

Statement of 1. Carrier violated the effective Agreement when Laborer Larry J. Jones was unjustly dismissed July 3, 1978.

Claim: 2. Claimant Larry J. Jones shall be reinstated to his former position with pay for all time lost, and with all seniority, vacation and other rights unimpaired.

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 received the following letter dated July 3, 1978 from his Division Engineer:

"You are dismissed from the service of Southern Pacific Transportation Company for arriving late to work on June 24, 1978, and for being absent from your employment as Lafayette Division Track Laborer on June 29, 1978, in both cases without authority, which is violation of that portion of Rule 810 of General Rules and Regulations of General Notice effective October 31, 1976, of Southern Pacific Transportation Company, which reads as follows:

'Employees must report for duty at the 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 ...'

Please surrender any Company property you may have in your possession to roadmaster's office in Schriever, La."

Claimant requested and was granted a hearing held July 19, 1978. As

a result thereof he received notice, in pertinent part, reading:

"I have reviewed the transcript of the hearing and this is to advise you that the position as stated in my letter of July 3, 1978 is sustained."

The Board finds that Claimant was accorded the due process prescribed in his discipline rule.

There was sufficient evidence to support Carrier's conclusion as to Claimant's culpability. The discipline assessed, in view of Claimant's service record, is found to be reasonable. Claimant had been dismissed on April 6, 1978 for absenting himself from his employment without authority. He was reinstated on a leniency basis May 8, 1978. His propensity for failure to protect his work assignment seems quite apparent. As pointed out in Second Division Award 6710 (Dolnick):

"Every employee has an obligation and a duty to report on time and work his scheduled hours unless he has good and sufficient reasons to be late, to be absent, or to leave early. Those reasons must be supported by competent and acceptable evidence. No employee may report when he likes to choose when to work. No railroad can be efficiently operated for long if voluntary absences are condoned."

This claim will be denied.

AWARD: Claim denied.

M. A. Christie

M. A. Christie, Employee Member

C. B. Goyne

C. B. Goyne, Carrier Member

Arthur T. Van Wart

Arthur T. Van Wart, Chairman
and Neutral Member

Issued at Salem, New Jersey, February 7, 1980.