

PUBLIC LAW BOARD NO. 2444

Award No. 56

Case No. 70

Docket No. MW-81-81

Parties Brotherhood of Maintenance of Way Employees

to and

Dispute Southern Pacific Transportation Company
(Texas and Louisiana Lines)

Statement of Claim: Claim of BMWE and Laborer Driver E. C. Williams for reinstatement to his former position with all seniority, vacation rights, other rights unimpaired, in addition to all compensation lost commencing February 16, 1981 and to run concurrently until such time he is restored to service, alleging unjustly dismissed.

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 laborer/driver on extra gang 120 on the Schriever District, had been employed for four years. He was advised, under date of February 23, 1981 as follows:

"You are dismissed from the service of the Southern Pacific Transportation Company for being absent from your employment as Lafayette Division Track Laborer without proper authority on February 14, 1981, which is in violation of Rule M810 of the General Rules and Regulations of General Notice effective April 1, 1978, of the Southern Pacific Transportation Company which reads 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...."

Claimant requested and was granted a hearing which was finally held on March 19, 1981. As a result thereof he was advised that the discipline assessed was sustained.

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

There was sufficient evidence to support the conclusion reached by Carrier.

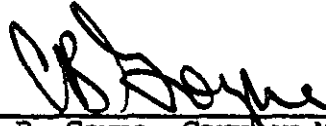
The Board finds that there are circumstances which cause the discipline assessed to be excessive. Therefor, Claimant will be returned to service with all rights unimpaired but without pay and placed in a probationary status for six months.

AWARD: Claim disposed of as per findings.

ORDER: Carrier is directed to make this Award effective within thirty (30) days of date of issuance shown below.



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.