

PUBLIC LAW BOARD NO. 2444

Award No. 66

Case No. 80

Docket No. MW-81-141

Parties Brotherhood of Maintenance of Way Employees

to and

Dispute Southern Pacific Transportation Company
(Texas and Louisiana Lines)

Statement

of Claim: Claim of BMW and Track Laborer E. J. Franklin to reinstatement to his former position with pay for all time lost, all seniority, vacation rights and all other rights accruing to him unimpaired, 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 was advised, under date of May 13, 1981, by the Regional Maintenance of Way Manager, in part, as follows:

"You are absent from your job assignment without proper authority from May 1 through May 8, 1981 which is in violation of Rule M810 of the General Rules and Regulations of the Southern Pacific Transportation Company...

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

Claimant requested and was granted a hearing which, after several postponements, was finally held on June 23, 1981. As a result thereof, Carrier concluded that Claimant was guilty of violation of Rule 810 as charged and was so notified.

There was sufficient credible evidence adduced, including admissions by Claimant, to support Carrier's conclusion that Claimant was guilty as charged.

Claimant is very familiar with said Rule 810 inasmuch as he had been disciplined three times for violation thereof including the fact that he was dismissed previously for violation of Rule 810.

While Claimant may believe that he had a valid "personal" reason for his failure, the fact remains that he did not report for work nor did he request permission to be off.

In light of this record and Claimant's service record, the Board finds that the discipline assessed by Carrier was 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 May 11, 1983.