

PUBLIC LAW BOARD NO. 2444

Award No. 80

Case No. 94

Docket No. MW-81-187  
321-17-A

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 R. E. Beene for reinstatement to his former position with pay for all time lost, with all seniority, vacation, and all other rights due 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.

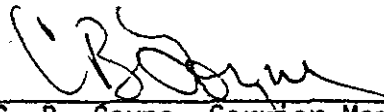
Claimant Laborer Driver was dismissed under date of July 2, 1981 because of having been absent from his job assignment without proper authority from June 15 to July 2, 1981. Said dismissal following an investigation held in connection therewith, was upheld.

The Board finds that there was sufficient evidence adduced to support Carrier's conclusion as to Claimant's guilt. The fact that Claimant was incarcerated was not a justifiable reason for his absence or for his failure to inform Carrier.

Claimant's previous record of failing to protect his employment whereby he had been disciplined on five other occasions, including a dismissal prior to the instant dismissal, provides no basis for cause to change the discipline assessed. 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 March 14, 1983.