

PUBLIC LAW BOARD NO. 2444

Award No. 87

Case No. 101

Docket No. MW-82-37
-339-7-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 System Machine Operator H. A. Brown for an arbitrary and penalty payment of 168 hours at his respective straight time rate of pay and System Machine Operator L. C. Fisher for 128 hours at his respective straight time rate of pay, alleging unjustly suspended from service:

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.

Both Claimants were advised, under date of November 6, 1981, by the Regional Maintenance of Way Manager, in part, as follows:

"At approximately 12:30 p.m., which was after your lunch period, on November 5, 1981 it was discovered that you had left your job assignment without proper authority and failed to return the remainder of your tour of duty that date. This is in violation of Rules 802 and M810 of the General Rules and Regulations of the Southern Pacific Transportation Company, as posted by General Notice."

Brown was suspended from service from November 6 through December 6, 1981 while Fisher was suspended from service from November 6 through November 22, 1981.

Both Claimants requested and were granted a hearing which was held on December 16, 1981. As a result thereof, they were advised that the discipline was sustained.

The Board finds that while Carrier had proven its case as to the culpability of both Claimants that the circumstances are such that the discipline assessed was excessive. Therefore, Claimant Brown will be awarded 84 hours and Claimant Fisher 64 hours.

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. Goynes, Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member

Issued May 11, 1983.