

PUBLIC LAW BOARD NO. 2444

Award No. 88

Case No. 102  
Docket No. MW-82-39  
-339-9-A

Parties Brotherhood of Maintenance of Way Employees

to and

Dispute Southern Pacific Transportation Company  
(Texas and Louisiana Lines)

Statement Claim of BMW and Machine Operator Lee Ford for reinstatement of Claim: to his former position with all seniority, vacation rights, and any other rights accruing to him unimpaired, in addition to all other pay lost commencing November 2, 1981 and to run concurrently until such time that he is restored to the 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.

Claimant, a System Machine Operator, at Englewood Yard, was advised under date of November 2, 1981 by the Regional Maintenance of Way Manager in part as follows:

"You absented yourself from your job assignment without proper authority October 27 and 28, 1981 which is in violation of Rule M810 of the General Rules and Regulations of the Southern Pacific Transportation Company as posted by General Notice.

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

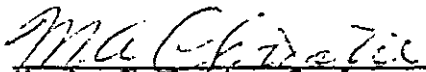
Claimant requested and was granted a hearing which was held on December 17, 1981. As a result thereof, he was advised that the discipline was sustained.

The facts of record support Carrier's conclusion as to Claimant's culpability.


Notwithstanding, the Board finds circumstances which serve to mitigate the discipline assessed. Therefore, Claimant will be conditionally reinstated to service with all rights unimpaired but without pay for time out of service subject to his meeting and passing the necessary return to service examinations and his meeting with his and Carrier's local representatives and understanding his responsibility to protect Carrier's requirements of service. Thereafter, he will be placed on a one year probation status. Claimant is to clearly understand that any violation of Carrier's rules will also result in his violation of probation which, alone, would be sufficient to be a basis for his dismissal.

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 May 11, 1983.