

PUBLIC LAW BOARD NO. 2444

Award No. 96

Case No. 109

Docket No. MW-82-191

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 Track Laborer A. Brown for reinstatement to his former position with all seniority, vacation rights and other rights accruing to him unimpaired, in addition to all compensation lost commencing July 19, 1982 and to run concurrently to 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 Track Laborer for almost three years was advised under date of July 19, 1982 by the Assistant Regional Engineer, in part, as follows:

"You are dismissed from the service of Southern Pacific Transportation Company effective July 19, 1982 for being absent from your employment without proper authority July 14 through and including July 16, 1982. This is in violation of M-810 of the General Notice of the General Rules and Regulations of the Southern Pacific Transportation Company effective April 1, 1978 which reads in part as follows:

'Rule M-810. Employees must report for duty at the prescribed time and place...they must

not absent themselves from their employment without proper authority...continued failure by employees to protect employment shall be sufficient cause for dismissal..."

A formal hearing was requested, granted and held on August 31, 1982. Claimant was thereafter advised that the record supported Carrier's conclusions and that the discipline, as assessed, was sustained.

The Board finds that Claimant was accorded the due process to which entitled.

There was sufficient evidence adduced, including the admissions of Claimant to support the conclusions reached by Carrier as to Claimant's guilt.

In view of Claimant's previous three dismissals the discipline assessed is found to be 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 October 21, 1983.