

PUBLIC LAW BOARD NO. 2556

Award No. 1

Case No. 1

Parties Brotherhood of Maintenance of Way Employees
to and
Dispute Southern Railway Company

Statement
of Claim: Claim on behalf of M. J. Marvels that he be restored
to service with seniority and other rights unimpaired
and be paid for all time lost subsequent to June 21,
1978, account of being dismissed for insubordination.

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 October 17, 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 Machine Operator was dismissed from service
effective June 21, 1978, following a formal investigation on charges
of insubordination.

Claimant was accorded a fair and impartial investi-
gation.

The Board finds that while the charge of insubordi-
nation was in part upheld by the record such charge was the con-


clusion of his other charges in connection with which the record created doubt. Where doubt is involved such redounds to the Employee's benefit.

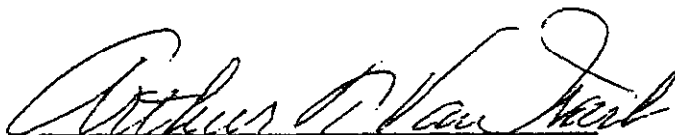
Consequently, Claimant shall be restored to service with all rights unimpaired, but without any pay subject to passing the necessary return to service examinations and, if necessary, the right to displace in to a gang other than that supervised by the foreman involved in the incident leading to the instant dispute.

Award: Claim disposed as per findings.

Order: Carrier is directed to make this Award effective within thirty (30) days of date of issuance shown below.


A. D. Arnett, Employee Member


R. S. Spenski, Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member

Issued at Washington, D. C., April 4, 1980.