

PUBLIC LAW BOARD NO. 2556

Award No. 13

Case No. 17

File No. MW-257

Parties Brotherhood of Maintenance of Way Employees

to and

Dispute Georgia, Southern and Florida Railway Company

Statement

of Claim: Claim on behalf of Felton Richardson for reinstatement with seniority unimpaired, and pay for all time lost subsequent to and including 1/21/80; account dismissed for failure to properly operate his assigned machine on 12/19/79.

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 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, on December 19, 1979, was working as Truck Driver/Laborer operating a high rail dump truck with T&S gang No. 5 in the vicinity of Monticello, Georgia.

Claimant, who had previously made several trips with loads of dirt and properly dumped same, on one particular trip failed, prior to dumping his load of dirt, to properly secure the high-rail dump truck to the rail. Said failure resulted in said dump truck overturning and being damaged.

Claimant was notified as a result of this incident to attend an investigation on December 28, 1979. As a result of the investigation, held on January 11, 1980, Carrier found Claimant was guilty as charged. He was dismissed from service for Carrier's discipline therefor.

Claimant was accorded the due process to which entitled under the discipline rule.

There was sufficient evidence adduced to support Carrier's conclusion as to Claimant's guilt. The witnesses testified that the

dump truck had not been properly secured to the rail by attachment of the "rail dogs," that the hydraulic tail gate had not been released prior to the dump body being raised to dump the dirt.

We find the discipline in this case was reasonable. Absent a showing that Carrier acted arbitrary or capricious, we are unable to substitute our judgement for that of Carrier. In the circumstances, this claim will be denied.

Award: Claim denied.



A. D. Arnett, Employee Member



R. S. Spenski, Carrier Member



Arthur T. Van Wart, Chairman
and Neutral Member

Issued at Wilmington, Delaware, April 30, 1982.