

PUBLIC LAW BOARD NO. 2556

Award No. 14

Case No. 18

File No. MW-266

Parties Brotherhood of Maintenance of Way Employees

to and

Dispute Georgia, Southern and Florida Railway Company

Statement

of Claim: Claim on behalf of Johnny Ferguson for reinstatement with seniority and other rights unimpaired, and pay for all time lost subsequent to 3/17/80, account dismissed for failure to protect assignment on 2/25/80 and 2/26/80.

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 the dates of the incident was assigned as a Machine Operator on rail Transposing Gang 552. He failed to report to protect his assignment on February 25 and 26, 1980, as well as not contacting his supervisors to gain permission to be off on such dates.

Claimant was advised, on February 27, 1980, that he was being held out of service pending investigation on the charge of failing to protect his assignment. Thereafter, he was advised to attend an investigation to:

"Determine the cause and place responsibility for your failure to protect your assignment, also, be advised that your past work record will be reviewed in this investigation and made part of the investigation..."

As a result thereof, Carrier concluded Claimant to be guilty as charged. He was dismissed from service as discipline therefor.

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

There was sufficient evidence adduced, including the admissions of Claimant, to support Carrier's conclusions as to his culpability. Even were it true, and the record does not so support, that Claimant had attempted to make a contact with his supervisors on February 25th, it is clear, in any event, that he failed to do so on February 26th.

His Foreman testified that he had left his home telephone number on a bulletin board at the work location trailer, and that he instructed his people on the gang to call the number if they were not going to report for work. Claimant failed to do so and comply therewith.

Further, the record reflects that Claimant exhibited an indifference about his obligation to report for duty, or to obtain permission from his supervisor to be absent from work. Such failure places an additional burden or hardship on the other gang members as well as affecting Carrier and its ability to perform its work properly.

Claimant's past record reflects a total indifference to his obligation to protect his position. Claimant failed to work the first half of January. He worked a full half the second half. Claimant worked ten days the first and second half of February. In October he worked three days and lost twenty. In November he worked fourteen out of twenty days. In December seventeen days out of nineteen.

The Board concludes that it cannot provide the motivation or interest which properly belongs to Claimant. As previously pointed out in Second Division Award No. 7852 (Lieberman) on this property:

"An employee has an obligation to report regularly and on time, regardless of his personal problems; this is a fundamental aspect of the employment relationship. No company, much less a railroad company, can function effectively if it tolerates erratic attendance. Carrier cannot be criticized for attempting to take firm measures to deter excessive absenteeism and tardiness (See 2nd Division, NRAB Awards 6710, 6240, 6285 among others)"

This claim will be denied.

Award: Claim denied.

A. D. Arnett

A. D. Arnett, Employee Member

R. S. Spenski

R. S. Spenski, Carrier Member

Arthur T. Van Wart

Arthur T. Van Wart, Chairman
and Neutral Member

Issued at Wilmington, Delaware, April 30, 1982.