

PUBLIC LAW BOARD NO. 2556

Award No. 17

Case No. 22

Docket No. MW-312

Parties Brotherhood of Maintenance of Way Employes

to and

Dispute Southern Railway Company  
Georgia, Southern and Florida Railway Company

Statement  
of Claim: Claim on behalf of W. J. Gibson for reinstatement with seniority and other rights unimpaired and pay for all time lost subsequent to November 20, 1980; account dismissed for failing to protect his assignment.

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 was employed as a Track Laborer by Carrier on Gang No. TM-232, at Statesboro, Georgia. Division Engineer J. A. Patton wrote Claimant, under date of November 7, 1980, advising that he was being charged with failure to protect his assignment from November 3 to 7, 1980, and instructing him to attend a formal investigation to be held on November 14, 1980.

Subsequent to such investigation Claimant was advised, under date of November 20, 1980, that the evidence adduced thereat proved that he was guilty for failing to protect his assignment and because of his previous disciplinary record that he was dismissed from service as discipline therefor effective November 21, 1980.

The Board finds that Claimant was accorded the due process to which entitled under Rule 40 - Discipline and Differences.

The evidence adduced, including the admissions of Claimant, support Carrier's conclusion that he was guilty, that Claimant failed

to protect his assignment and that Claimant had not notified anyone. While Claimant offered a rationale of being sick and was being tended to by doctors, no medical evidence of any nature was submitted in support thereof.


The Board finds that Claimant's record serves against him. His record indicates a total indifference to his obligation to protect the requirements of Carrier's service. Here, Claimant had been given letters of reprimand dated April 30, 1979, December 27, 1979, March 14, 1980, May 15, 1980 and October 21, 1980, all for failing to protect his assignment.

— Additionally, following an investigation, held on July 8, 1980, Claimant was notified under date of July 26, 1980 that he was suspended for a period of fifteen (15) calendar days for again failing to protect his assignment.

In light of such a poor service record, the Board finds the discipline assessed to be reasonable. Here, Carrier has not acted in an arbitrary or capricious manner. It need not be burdened by an employee who is not desirous of demonstrating that he intends to work on a full time basis and protect Carrier's needs. In the circumstances, this claim will be denied.

Award: Claim denied.

  
B. L. Hall, Employee Member

  
R. S. Spenski, Carrier Member

  
Arthur T. Van Wart, Chairman  
and Neutral Member

Issued April 19, 1983.