

Award No. 21

Case No. 27

Docket No. MW-368

Parties            Brotherhood of Maintenance of Way Employees

to                and

Dispute          Southern Railway Company

Statement  
of Claim:        Claim of former Laborer C. E. Smith that he be  
                 reinstated and paid for all time lost as a result of  
                 his dismissal on June 5, 1981 for violation of Rule G.

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.

The Board finds Claimant was accorded the due process to which  
he was entitled under Agreement Rule 40.

There was sufficient evidence adduced to support Carrier's  
conclusion as to Claimant's guilt in violating Rule G.

There were circumstances which serve to mitigate the discipline  
assessed. Claimant had over 22 years service. The Board will con-  
ditionally reinstate Claimant to service with all rights unimpaired  
but without any pay for time out of service, subject to the  
following conditions:

Claimant is to enter and complete Carrier's Alcohol  
Rehabilitation Program, and if Carrier's Rehabilitation  
Counselor be satisfied, the Claimant is to thereafter  
enter a Local AA Program and attend their meetings with  
regularity for the duration of a one-year probationary  
status into which he is herewith placed.

The Claimant must also pass the Carrier's return to  
service physical examination.

If these conditions of conditional reinstatement are not satis-  
factory to Claimant and he either affirmatively or, in the alterna-  
tive, fails to accept and respond to these conditions within 30-  
days after notification, his claim will be considered denied as of  
that time.

Award: Claim disposed of as per findings.

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

Byron L. Hall (D.F.D.)  
B. L. Hall, Employee Member

D. N. Ray  
D. N. Ray, Carrier Member

Arthur T. Van Wart  
Arthur T. Van Wart, Chairman  
and Neutral Member

Issued May 16, 1983