

PUBLIC LAW BOARD NO. 2556

Award No. 30

Case No. 37

File No. MW-411

Parties Brotherhood of Maintenance of Way Employees

to and

Dispute Southern Railway Company

Statement

of Claim: Claim of Richmond, Virginia Track Laborer J. E. Gilmore that he be paid for all time lost during his suspension of October 8 through December 6, 1981 for reporting off work under false pretenses.

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 that subject matter, and that the parties were given due notice of the hearing held.

Claimant Track Laborer, about 6:30 AM on October 6, 1981 called Track Supervisor Burkholder and requested that he be permitted to be off work that day in order to get his driver's license renewed. Such permission was granted and Claimant did not work October 6th.

However, as a result of information which subsequently came to Carrier's attention, Claimant was notified on October 9, 1981:

"You are hereby suspended from service pending investigation. The investigation will concern allegations reporting off under false pretenses.."

A second letter advised:

"Your investigation for reporting off work under false pretenses will be held Thursday 15 October 1981 at 2:00 p.m. at Southern South, Richmond Yard Office, 405 West Sixth Street, Richmond, Virginia..."

As a result of the investigation held on October 15, 1981, Carrier concluded Claimant to be guilty as charged. Carrier imposed a 60 day suspension as discipline therefor.

The record reflects that on October 7th, the Assistant Track Supervisor asked Claimant if he had his license renewed because from time to time he was required to operate Carrier vehicles. When Claimant showed his license the Assistant Supervisor noticed that it had been renewed on October 5th and not on October 6th. Such discrepancy led to an internal investigation which included one with the Department of Motor Vehicles. Despite Claimant's assertion that the Department had made a mistake that the license had been renewed on October 6th, said Department stated that date was incorrect. It was October 5th. Claimant admitted that he had lied about the reason for his absence. He apologized for same and advised that he needed to be off for personal reasons.

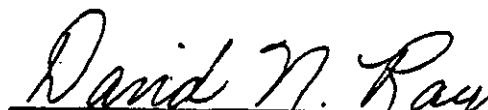
The Board finds that Claimant was accorded the due process to which he was entitled.

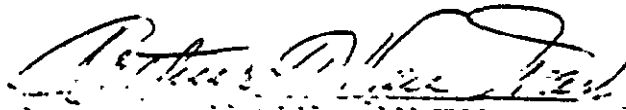
There was sufficient evidence adduced including Claimant's admission to support Carrier's conclusion as to Claimant's guilt.

The Board finds that Claimant's action was dishonest when he marked off under false pretenses. Honesty is both a required and implied condition of employment. The Board finds that the discipline in the facts of this record is reasonable. This claim will be denied.

Award: Claim denied.


Bryce L. Hall, Employee Member


D. N. Ray, Carrier Member


Peter D. [illegible]