

PUBLIC LAW BOARD NO. 2556

Award No. 6

Case No. 6

Docket No. MW-200

Parties Brotherhood of Maintenance of Way Employees  
to and

Dispute Southern Railway Company

Statement

of Claim: Claim on behalf of O. J. Hunt for reinstatement with pay  
for removing five new cross ties from right of way without  
permission on June 6, 1979.

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 and his brother-in-law were observed, by two on duty  
employees, loading ties into a trailer being pulled by a van in Carrier's  
Monroe yard on June 16, 1979. After Claimant's van left the yard it was  
stopped by the General Yardmaster who ascertained who the two individuals  
were. When advised that they had permission to remove the ties the  
General Yardmaster checked with the Track Supervisor who denied that he  
gave any such permission. The police were thereupon called. Claimant  
and his brother-in-law were arrested.

A formal investigation was held on the charge of removing five (5)  
ties from Carrier's right of way. As a result of such investigation,  
Claimant was advised, under date of July 31, 1979, in part pertinent:

"You later testified that Mr. Hodge had  
not given you permission to get the ties.

You testified that you made a mistake and  
acknowledged that you took the ties without  
permission.

You did admit to the charges of taking on  
ties without permission.

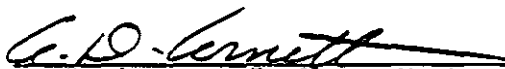
In view of the fact that you did remove five (5) new ties from Southern Railway property without permission you are herewith discharged from service on the Southern Railway."

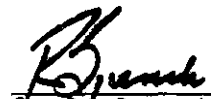
Claimant was accorded a fair hearing.


There was sufficient competent and credible evidence adduced, including Claimant's admission, to support the conclusion that he was guilty as charged.

In light of the offense, Claimant's record and short period of service we find no cause in this record to substitute our judgement for that of Carrier. The 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