

PUBLIC LAW BOARD NO. 3558

PARTIES) BROtherHOOD OF MAINTENANCE OF WAY EMPLOYEES
TO)
DISPUTE) SOUTHERN PACIFIC TRANSPORTATION CO. (EASTERN LINES)

STATEMENT OF CLAIM:

"Claim on behalf of Laborer-Driver L. C. Lewis for reinstatement to his former position with all seniority, vacation rights and any other rights accruing to him unimpaired, in addition to his personal work record being cleared of the alleged charge, and all compensation lost commencing February 25, 1985, and to run concurrently until Mr. L. C. Lewis is restored to service." (MW-85-77)

FINDINGS:

The Board, after hearing upon the whole record and all the evidence, finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended; this Board has jurisdiction over the dispute involved herein; and, the parties were given due notice of hearing thereon.

Claimant was suspended from service on February 25, 1985 and then dismissed from service effective April 4, 1985 following a company hearing at which the Carrier had determined him to be in violation of Rule 801 of its General Rules and Regulations on a charge that held Claimant had made an unauthorized purchase of gasoline with a company GELCO credit card on February 11, 1985.

Rule 801 reads:

"801. Employees will not be retained in the service who are careless of the safety of themselves or others, insubordinate, dishonest, immoral, quarrelsome or otherwise vicious, or who conduct themselves in a manner which would subject the railroad to criticism.

Any act of hostility, misconduct or willful disregard or negligence affecting the interests of the Company is sufficient cause for dismissal and must be reported."

While there is reason to believe from review of the transcript of investigation that Claimant may well have been given the company credit card by a Track Foreman in order to purchase gasoline in five gallon gas cans for use in company motor cars, we are not persuaded that Claimant has provided a satisfactory explanation

for the credit card statement which he had signed reflecting the purchase of 16.2 gallons of gasoline which was said to have been put into his personal vehicle. We fail to comprehend the Claimant's contention that although the statement showed only a purchase of gasoline, that in addition to having purchased gas in the five gallon cans for the company he had also purchased 3 or 4 quarts of oil at that same time since there was no oil in the company warehouse.

In the light of a complete review of all testimony offered at the company hearing and in consideration of Claimant's past disciplinary record during his five and one-half years service, we have no reason to substitute our judgment for that of the Carrier with respect to the instant infraction of rules or the extent of discipline it elected to impose. The claim for reinstatement to service will be denied.

AWARD:

Claim denied.



Robert E. Peterson, Chairman
and Neutral Member



C. B. Gayne
Carrier Member



M. A. Christie
Organization Member

Branson, MO
May 19, 1986