

PUBLIC LAW BOARD NO. 3558

PARTIES)
TO)
DISPUTE)
BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES
SOUTHERN PACIFIC TRANSPORTATION COMPANY
EASTERN LINES

AWARD

STATEMENT OF CLAIM:

"1. Carrier violated the effective Agreement when System Machine Operator G. D. Wood was unjustly dismissed.

2. Claimant wood shall now be reinstated to his former position with all seniority, vacation rights and any other rights accruing to him unimpaired in addition to his record being cleared of the alleged charge of being in violation of Carrier Rule 607, Conduct, and be paid for all time lost commencing March 3, 1986, and to run concurrently until Mr. Wood is reinstated to service." (MW-86-51)

OPINION OF BOARD:

Claimant is a Machine Operator with a service date of April 4, 1979. By letter dated March 3, 1986, Claimant was suspended pending hearing for reporting a lost paycheck and receiving a time voucher in the amount of the lost paycheck and then subsequently cashing both in alleged violation of Rule 607. After hearing on March 12, 1986, and by letter dated March 13, 1986, Claimant was dismissed from service.

At the hearing, Claimant admitted that he reported a lost paycheck in the amount of \$1087.05 for the last half of December 1985 which caused the Carrier to issue a time voucher to Claimant for the same amount. Thereafter, Claimant cashed both the paycheck and time voucher. According to Claimant, he cashed the paycheck with full knowledge that he previously cashed the time voucher.

Substantial evidence clearly supports the Carrier's conclusion that Claimant engaged in prohibited conduct within the meaning of Rule 607 (4) ("Employees must not

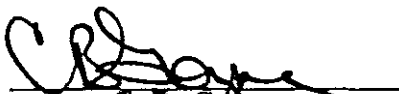
be: ... (4) Dishonest;"). Form 4215's provisions for subsequent payroll deductions for overpayments does not require a different conclusion. Nothing contained therein prohibits the Carrier from disciplining an employee for a theft as occurred in this matter. Based on the above, we cannot conclude that dismissal was arbitrary or capricious so as to amount to an abuse of the Carrier's discretion.

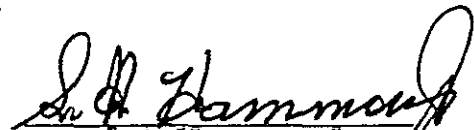
The fact that Claimant's asserted motivation for cashing both the paycheck and time voucher was because of his accumulated debts cannot, in this case, excuse the admitted theft. Similarly, we must reject the Organization's argument that Claimant's actions were not "serious" within the meaning of Article 14 A-1 so as to prohibit the Carrier from suspending Claimant pending a hearing.

AWARD:

Claim denied.


Edwin H. Benn, Chairman
and Neutral Member


C. B. Goyne
Carrier Member


S. A. Hammons, Jr.
Organization Member

Houston, Texas
October 23, 1987