

AWARD NO. 68
CASE NO. 68

PUBLIC LAW BOARD NO. 3558

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

AWARD

STATEMENT OF CLAIM:

1. Carrier violated the effective Agreement when Houston Division Track Foreman Leon Singleton was unjustly suspended for thirty (30) days.

2. Claimant Singleton shall now be paid for 240 hours at foreman's straight time rate of pay and his record cleared of charges as contained in charge letter dated March 13, 1987." (MW-87-71)

OPINION OF BOARD:

Claimant has been employed by the Carrier since September 25, 1968 and has been a track foreman for fourteen years. As a result of charges dated March 13, 1987, investigation held March 23, 1987 and by letter dated April 1, 1987, Claimant was suspended for thirty working days due to his failure to secure proper flag protection on March 13, 1987.

On March 13, 1987, train dispatcher A. J. Warfel issued track time to Claimant for operation of his spray truck between Sinco and Pasadena junctions during the period 8:41 a.m. to 9:30 a.m. Claimant relinquished his time at 9:24 a.m. At that time, Claimant's vehicle was in the siding at Pasadena. However, the Pasadena siding was not within the limits previously granted. Claimant's reason for exceeding the limits was that he knew a train was approaching and did not want to cause a delay with his spray truck.

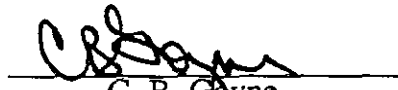
Here, Claimant knowingly exceeded the limits granted by the dispatcher and hence, violated Rule 351's prohibition against occupying track without permission. No matter


how well-intentioned Claimant's conduct was so as not to delay an oncoming train, the fact remains that such a decision was not his to make. As a result, Claimant admittedly violated one of the most important safety rules the Carrier has. Under the circumstances, we cannot say that a thirty working day suspension is arbitrary, capricious or excessive.

AWARD:

Claim denied.


Edwin H. Benn, Chairman
and Neutral Member


C. B. Goyne
Carrier Member


S. A. Hammons, Jr.
Organization Member

Houston, Texas
August 31, 1988