

PUBLIC LAW BOARD NO. 4373

PARTIES	SOUTHERN PACIFIC TRANSPORTATION COMPANY)	
	(EASTERN LINES)	
TO	AND	AWARD NO. 24
DISPUTE	BROTHERHOOD OF MAINTENANCE OF WAY)	CASE NO. 29
	EMPLOYEES	

STATEMENT OF CLAIM:

1. Carrier violated the effective agreement when Machine Operator J. L. Simmons was unjustly dismissed from service.
2. Claimant Simmons shall now be reinstated to his former position with all seniority, vacation rights and any other rights accruing to him unimpaired, and also his record cleared of the charges and in addition to all pay lost commencing January 11, 1988, and to run concurrently until he is restored to service.

HISTORY OF DISPUTE:

Claimant failed to protect his assignment from December 7, 1987, through December 14, 1987. As a result he was suspended from service for fifteen working days commencing Tuesday, December 15, 1987, through Monday, January 4, 1988. Claimant accepted the discipline and did not request an investigation. He failed to report for duty following his suspension and was charged with violation of Rules 604 and 607. Investigation was held on February 3, 1988. By letter dated February 11, 1988, Claimant was dismissed from service.

The Organization grieved the discipline. As the dispute remains unresolved, it is before this Board for final and binding determination.

FINDINGS:

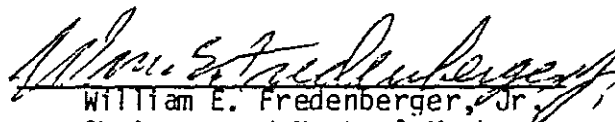
The Board upon the whole record and all the evidence finds that the employees and the Carrier are employees and Carrier within the meaning of the Railway Labor Act, as amended, 45 U.S.C. §§151 et seq. The Board also finds it has jurisdiction to decide the dispute in this case. The Board further finds that the parties to the dispute, including Claimant, were given due notice of the hearing in this case.

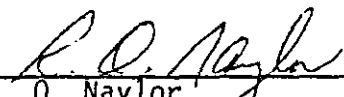
We are satisfied that substantial evidence supports the Carrier's conclusion that Claimant had violated Rule 604 by absenting himself from duty without proper authority on the dates in question, as well as violation of Rule 607. Claimant's prior record was less than exemplary in that he had been disciplined on numerous occasions for the same rule violations. Therefore, Claimant had been given every opportunity to improve, yet he continued to absent himself without permission in violation of Carrier's rules.

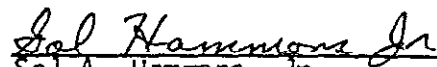
Accordingly, we must conclude that the record supports Claimant's guilt and permanent dismissal was completely justified under the facts of this case.

AWARD

Claim denied.


William E. Fredenberger, Jr.
Chairman and Neutral Member


R. O. Naylor
Carrier Member


Sol A. Hammons, Jr.
Employee Member

Dated: Feb. 26, 1980