

NATIONAL MEDIATION
BOARD

DEC 30 9 48 AM '71

NATIONAL RAILROAD
ADJUSTMENT BOARD

PUBLIC LAW BOARD NO. 716

AWARD NO. 3
CASE NO. 3
(SU-1200)

PARTIES) UNITED TRANSPORTATION UNION (S)
TO)
DISPUTE) SOUTHERN PACIFIC TRANSPORTATION COMPANY,
TEXAS AND LOUISIANA LINES

STATEMENT OF CLAIM: (SU-1200 1918-L159-71)

Claim one (1) day at pro rata rate in favor of El Paso Switchman V. G. Mettler for attending investigation on November 24, 1970 and claim for all time lost from November 30, 1970 until reinstated with seniority unimpaired and vacation and all other rights restored.

FINDINGS: This Public Law Board No. 716 finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, and that the Board has jurisdiction.

Any alleged laches in invoking disciplinary proceedings against Claimant, and convening the investigation contemplated by Rule 94, did not begin to accrue until a ruling was had on the charges on which Claimant was arrested. Only then could it be ascertained, with any degree of certainty, whether or not disciplinary action was indicated.

The record shows that in the United States District Court, for the Western District of Texas, on November 6, 1970, Claimant pleaded guilty to having stolen property in his possession, and he received a suspended sentence of one year imprisonment, and placed on five years probation.

The holding of an investigation by Carrier on November 24, 1970, concerning the criminal charges on which Claimant had been convicted, did not constitute an unreasonable delay in taking disciplinary action.

In the instant circumstances, Claimant's dismissal from service, being consistent with the purport of Operating Rules 801 and 804, cannot be deemed unjustified.

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AWARD: Claim denied.

Public Law Board No. 716

/s/ Harold M. Gilden
Harold M. Gilden, Chairman

John B. Cropper President
John B. Cropper, Employee Member

R. Cunningham
R. Cunningham, Carrier Member

Houston, Texas
December 14, 1971