

PUBLIC LAW BOARD NO. 1925

Award No. 24

Case No. 24

Parties Brotherhood of Maintenance of Way Employees

to and

Dispute Southern Pacific Transportation Company
-Texas and Louisiana Lines-

Statement of Claim: 1. Carrier violated the effective Agreement when it unfairly, improperly and without just cause disqualified Claimant Guevara as a Track Foreman and as an Assistant Track Foreman on April 23, 1976.

2. Claimant Guevara be restored to his former status of Foreman and Assistant Foreman.

3. Claimant Guevara be paid the difference between Laborer's rate of pay and the rate applicable to a Foreman's position beginning April 26, 1976, and continuing until date Claimant Guevara is returned to Foreman's position and rate of pay.

Findings: The Board finds, after hearing upon the whole record and all evidence that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, that this Board is duly constituted by Agreement dated March 23, 1977, that it has jurisdiction of the parties and the subject matter, and that the parties were given due notice of the hearing held.

Claimant, prior to April 23, 1976, was a Track Foreman. He was disqualified April 23, 1976, as a Track Foreman and Assistant Foreman because while working as Foreman of Extra Gang 40, on the Uvalde District on April 9, 12, 21, and 22, 1976, he failed to properly comply with Rules M-530 and M-202D(b).. The investigation held on May 18, 1976, at Claimant's request, caused no change in the discipline imposed.

The record reflects that Claimant failed, on April 9, 1976 to arrange for

removal of "Y" order signs upon the expiration of the "Y" order time, that on April 12, 1976, Claimant failed to properly layout work materials resulting in a uneconomical utilization of labor, that on April 21, 1976 Claimant failed to arrange for the display of "Y" order signs to protect his gang, that on April 21, 1976 Claimant also failed to instruct rail relay equipment to be placed on the track until after 8:15 A.M. resulting in some loss of production and lastly, that on April 22, 1976, Claimant, did not properly lay out materials for work resulting in a loss of production.

The Rules in question read:

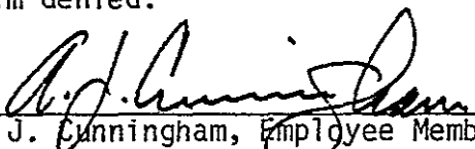
"Rule M-202-D(5) - Standard Form Y train order signs shall be erected promptly after order goes into effect and all signs must be removed at time order expires. Foreman is responsible for the proper placing of all signs. Foreman relieving another foreman after signs have been displayed must personally assure himself that proper signs are used and are properly placed. Care must be exercised when placing and removing signs so as not to delay trains."

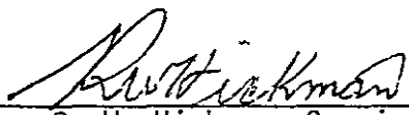
"Rule M-530 - Foreman report to and receive instructions from the roadmaster, general foreman (or assistant roadmaster) and/or track supervisor. They are in charge of and are responsible for the safe condition of the tracks, roadway and right of way where they are assigned to work, and for the safe, proper and economical use of labor and material in the maintenance thereof."

The Board finds that Claimant was accorded due process, that substantial evidence was adduced, including some admissions by Claimant against interest, to support Carrier's conclusion as to Claimant's culpability and that the discipline, on this record, was not unreasonable.

In the circumstances this claim will be denied.

Award: Claim denied.


A. J. Cunningham, Employee Member


R. W. Hickman, Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member