

PUBLIC LAW BOARD NO. 1925

Award No. 32

Case No. 33

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 Houston Division Track Laborer G. W. Erwin was dismissed from carrier's service on March 7, 1977, on the charge that he was absent without authority on March 3, 1977, in violation of Carrier's Rules M-810 and M-811.  
  
2. Claimant G. W. Erwin, shall now be returned to work, with pay for all time lost and with seniority, vacation and all other rights unimpaired.

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, a Track Laborer, was dismissed from service March 7, 1977, for being absent without authority on March 3, 1977 resulting in a violation of Rules M-810 and M-811. The investigation held at Claimant's request on March 31, 1977 failed to cause any change in the discipline imposed.

The Rules in question as here pertinent, provide:

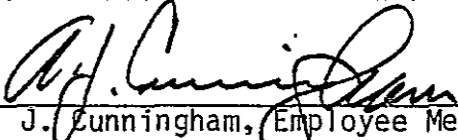
810 - "Employees must report for duty at the prescribed time and place... They must not absent themselves from their employment without authority..."

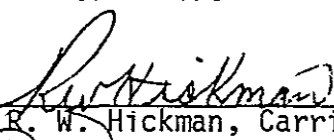
811 - "Employees must not absent themselves from their places...without proper authority...."


Claimant was accorded due process and the evidence addressed supported Carrier's conclusions. However, there were mitigating circumstances which serve to provide Claimant with one "last chance". Claimant is reinstated to service with all rights unimpaired but without any pay subject to his passing the usual return to service physical examination. Additionally he shall arrange to meet with the Division Engineer's representative and his Local Chairman for the purpose of a joint review of Claimant's service record and having a clear understanding of Claimant's obligations and responsibility under Rules M-810 and M-811. Claimant will thereafter be on his own and his subsequent actions will prove whether he desires to continue to work for the Southern Pacific Transportation Company.

Award: Claim disposed as per findings.

Order: Carrier shall make this award effective on or before February 1, 1978.

  
A. J. Cunningham, Employee Member

  
R. W. Hickman, Carrier Member

  
Arthur T. Van Wart, Chairman  
and Neutral Member

Issued at Houston, Texas, May 8, 1978.