

PUBLIC LAW BOARD NO. 1925

Award No. 34

Case No. 35

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 by unjustly and unfairly dismissing Track Laborer Carey Randolph from its service on February 21, 1977.

2. Claimant Randolph be reinstated, with pay for all time lost and with vacation, seniority 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 on February 21, 1977 for his failure to report an alleged personal injury, allegedly received on February 10, 1977, to his supervisor prior to completion of his tour of duty on said date. Such failure resulted in a violation of Rule M of the General Notice General Rule and Regulation of the Southern Pacific Transportation Company. Claimant requested a hearing thereon which was held on March 17, 1977. Claimant failed to attend. Nothing was adduced thereat to cause change in the discipline originally imposed.

The transcript reflects that shortly after 12 o'clock on February 10, 1977

Claimant went into his Roadmaster's office and reported to him that he was sick with a bad cold and the flu and Claimant then requested permission to lay off for the rest of the day. The Roadmaster questioned Claimant as to whether he had occurred an-on-the-job injury or if he was really sick. Claimant assured the Roadmaster that he was sick and that it was not the result of an-on-the-job injury. Claimant's request to leave early was granted. Claimant did not report for work on February 11. He did report for work on February 14, 1977. Claimant at that time advised the Roadmaster that he had hurt himself on February 10, 1977 and then filled out an accident report.

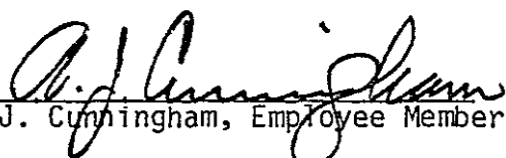
The pertinent part of Rule "M" provides:


"Every personal injury suffered by an employee...must be reported without delay to his immediate Supervisor prior to completion of his tour of duty."

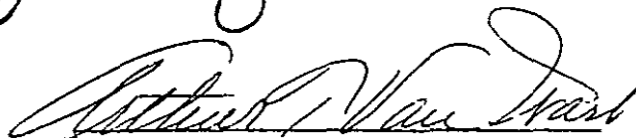
The Board finds that Claimant was accorded due process and that there was sufficient credible and competent evidence adduced to support Carrier's conclusion as to Claimant's culpability. Claimant was in violation of Rule M. In light of the seriousness of the charge and Claimant's failure of compliance with Rule M the discipline imposed as a result thereof is held to be not unreasonable.

In 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

Issued at Houston, Texas, May 8, 1978.