

PUBLIC LAW BOARD NO. 1925

Award No. 36

Case No. 37

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 unfairly and unjustly dismissing Relief Bridge Tender Warren Celestine from its service on April 7, 1977.

2. Claimant Celestine to be reinstated to his former position with all seniority, vacation rights, all insurance coverage and any other rights unimpaired in addition to all compensation lost commencing April 5, 1977 until restored to service.

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 Bridge Tender, was dismissed from Carrier's service on April 7, 1977 for climbing on the engine of Train 528 on March 5, 1977, for refusing to get off, when so ordered by the Engineer, for being quarrelsome with the Engineer of Train 528, for leaving his post on April 5, 1977 at Abbeyville Drawbridge, and also when an inspection thereof reflected that he failed to provide grease on said bridge and that the kerosene lights were dry of oil. Claimant's failures resulted in violations of Rules "0" of the General Notice Rules and Regulations, Rules M-801, and M-810.

The investigation held on April 27, 1977, at Claimant's request, caused no change in the discipline imposed.

The Rules in question in pertinent part provide:
"0" - Employees must not get on equipment except when required in performance of their duty."

"M-801 - Employees will not be retained in the service who are.... quarrelsome or otherwise vicious, or who conduct themselves in a manner which would subject the railroad to criticism. Any act of.....willful disregard or negligence affecting the interests of the company is sufficient cause for dismissal and must be reported."

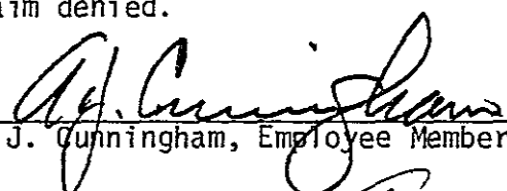
"M-810 - Employees must remain at their post of duty, and devote themselves exclusively to their duties during their tour of duty...They must not absent themselves from their employment without proper authority....."

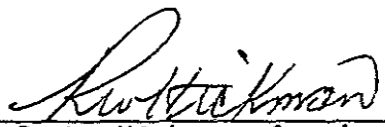
The Board finds that Claimant was given a fair and impartial hearing, that the record provided ample credible testimony, including admissions against interest by Claimant, to support Carrier's conclusion as to his culpability.

The discipline imposed was not unreasonable. This is particularly so in view of the fact that this is the third time that Claimant was dismissed from service for Rule violations, which also included Rules 801 and 810 among others.

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

Issued at Houston, Texas, May 8, 1978.