

PUBLIC LAW BOARD NO. 2182

Award No. 20

Case No. 21

Docket No. MW-78-58

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 Track Laborer G. W. Erwin was unjustly dismissed on January 27, 1978.
2. Track Laborer G. W. Erwin be reinstated to his former position with pay for all time lost, vacation, seniority and all other rights unimpaired.

Findings The Board, after hearing upon the whole record and all evidence, finds 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 May 22, 1978, that it has jurisdiction of the parties and the subject matter, and that the parties were given due notice of the hearing held.

Claimant, an extra gang laborer received the following letter dated January 27, 1978:

"You are dismissed from the service of the Southern Pacific Transportation Company for your violation of Rule 810 of the General Rules and Regulations of the Southern Pacific Transportation Company as posted by General Notice, effective October 31, 1976. You were absent without authority on January 25, 1978. Rule 810 is quoted in part as follows:

RULE 810

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

Claimant requested and was granted a fair and impartial hearing on February 22, 1978. Carrier, on the basis of the evidence adduced thereat, concluded that Claimant Erwin was guilty as charged and he was so notified by letter dated February 27, 1978.

Claimant seems to have a predeliction for failing to report for duty, absenting himself from employment and failing to report to this Supervisor when he is off or is going to be off. Claimant has been dismissed for the same incident and, in fact, this Board, in its Award 32 gave Claimant a "Last Chance" and reinstated Claimant to service in December 1977 without pay for the time lost.

The evidence proved that Claimant was absent without authority. He testified that he was able to work on January 25, 1978, but chose not to report to his assignment at Seabrook, Texas. Award No. 32 in reinstating Claimant did so on a "last chance basis" with a proviso that he was to be instructed as to the proper application of the rules upon his return to service. Carrier properly and promptly complied with the Award. Alas, but not Claimant. He fell back into his previous work habits. They resulted in the instant dismissal.

The Board finds that the discipline is reasonable and this claim will be denied.

Award Claim denied.

M. A. Christie
M. A. Christie, Employee Member

R. W. Hickman
R. W. Hickman, Carrier Member

Arthur T. Van Wart
Arthur T. Van Wart, Chairman
and Neutral Member

Issued at Wilmington, Delaware, March 31, 1979.