

Award No. 4

Case No. 4

Docket No. MW-77-87

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 failed to grant a hearing to Mr. L. Mamou, Jr., as per his request in his letter dated May 3, 1977.
2. Claimant L. Mamou, Jr. be granted a fair and impartial hearing.

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 Track Laborer was notified by his Division Engineer, on April 21, 1977, that he was dismissed from service, as follows:

"You are dismissed from the service for absenting yourself from your employment without authority on April 18 and 19, 1977, which is in violation of that portion of Rule 810 of General Notice, General Rules and Regulations of Southern Pacific Transportation Company, which reads as follows: "Employee must report for duty at the prescribed time and place, 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."

Article 14 of the BofMofWE Agreement reads:

Article 14 - DISCIPLINE AND GRIEVANCES

"(a) Employees disciplined or dismissed will be advised of the cause for such action in writing within ten (10) days.

(b) An Employee disciplined or who feels unjustly treated shall, upon making a written request to the Division Engineer within fifteen (15) days from date of advice, be given a fair and impartial hearing by the Division Engineer or an officer designated by him. The hearing will be held within fifteen (15) calendar days thereafter, unless for good cause, additional time is requested by the Carrier,

the employee, or employee's representative."

Claimant requested a hearing on his dismissal. He was advised that such request was received May 9, 1977, and that he had not timely filed within the prescribed fifteen (15) days. Therefore, such request was denied.

The record before the Board reflects that the Division Engineer received Claimants request for hearing on May 9, 1977. Such was beyond the time limit prescribed in Article 14. In such circumstances the Board has no alternative except to enforce the rule. The request was untimely made. This Award 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.