

PUBLIC LAW BOARD 2439

Award No. 100
Case No.100

PARTIES
TO
DISPUTE

Brotherhood of Maintenance of Way Employees
and
Southern Pacific Transportation Company

STATEMENT
OF CLAIM

- "(1) That the Carrier's decision to dismiss track laborer Mr. G.A.Brudvig was without just and sufficient cause and in violation of the Agreement, said action being in abuse of discretion.
- (2) The Carrier shall be required to reinstate tract laborer G.A. Brudvig to his former position with seniority and all other rights restored unimpaired with compensation for all wage loss suffered."

FINDINGS

Upon the whole record, after hearing, the Board finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, and that this Board is duly constituted under Public Law 89-456 and has jurisdiction of the parties and the subject matter.

The record indicates that Claimant was informed that he could make a displacement to a position and start working on December 10, 1984. This was conveyed to him on December 7th. He did not report for work on December 10, 11, or 12. Carrier attempted to contact him on these dates, but could not do so. The office supervisor did indeed talk to Claimant's wife on December 10, and advised her that Claimant could be jeopardizing his position for unauthorized absences by

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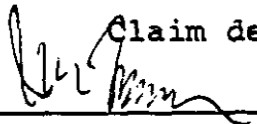
not reporting. On December 12, after failing to report for the third day successively, Carrier terminated Claimant in accordance with Appendix "R" of the Agreement.

In accordance with the Agreement, Claimant requested a hearing with respect to his termination. The hearing was scheduled and Claimant did not appear for that occasion even though his representative did appear. An attempt was made to locate Claimant but this was not successful on the day of the hearing. Following the hearing, Carrier reiterated its decision to dismiss Claimant for his unauthorized absences.

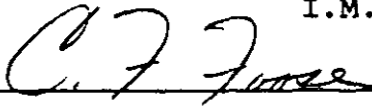
The record indicates that Claimant, a short-service employee, had no apparent excuse for his failure to report to work on the three days specified by carrier. Since no defense was possible (in view of Claimant's nonappearance), Carrier's conclusions with respect to the facts remain unchallenged. Since Claimant was accorded a proper hearing and the evidence indicates that he was guilty of unauthorized absences, Carrier was justified in dismissing him, and the claim must be denied.

AWARD

Claim denied.



I.M. Lieberman, Neutral-Chairman



C.F. Foose, Employee Member



H. Moles, Carrier Member

San Francisco, California

January 26, 1987