

PUBLIC LAW BOARD NO. 2439

Award No. 14

Case No. 14

PARTIES Brotherhood of Maintenance of Way Employees
TO and
DISPUTE Southern Pacific Transportation Company (Pacific Lines)

STATEMENT
OF CLAIM

- "1. That the Carrier violated the provisions of the current Agreement when on August 31, 1978 it dismissed Mr. Asa Watkins from its service without first according him his right to a fair and impartial hearing and on charges not supportive by the testimony adduced at the hearing held on August 29, 1978, said action being in abuse of discretion.
2. That Claimant Watkins be reinstated to the service of the Carrier with seniority and all rights restored unimpaired and that he be compensated for all time lost beginning on August 18, 1978, and each day subsequent to until such time as he is reinstated to his rightful position."

FINDINGS

Upon the whole record, after hearing, the Board finds that the parties herein are Carrier and Employees 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.

Claimant herein was charged with being insubordinate, argumentative, vicious and irrational on the day in question. He was removed from service pending investigation. Following the investigation he was found guilty of the charges and dismissed.

On the day in question, Claimant had been instructed by the Assistant Foreman to do certain work (shoveling). He argued with the Assistant Foreman that he was not going to do the work as instructed and indeed refused to do the work going to a different area and oiling certain other equipment. The record indicates that he also presented a nearly identical position to the Foreman who was called with respect to the same instructions. Finally, the Roadmaster appeared and confronted Claimant

upon the request of the Foreman and experienced the same type of problem including Claimant becoming vicious and quarrelsome towards the Roadmaster. The facts indicated above are clearly established by the transcript of the investigation. Consequently, there is no question but that Carrier appropriately found Claimant guilty of the charges.

With respect to the quantum of discipline imposed, Carrier relied in part on Claimant's past record. It appears that Claimant had only been employed by Carrier for a period of twenty months prior to the incident in question. During that period he had been admonished, dismissed, admonished again and suspended for an altercation. In view of the nature of the offense involved herein and Claimant's past record, there is no doubt but Carrier's conclusion as to the quantum of penalty was appropriate: it cannot be considered to be harsh or improper in any respect.

AWARD

Claim denied.



I.M. Lieberman, Neutral-Chairman


Carrier Member
Employee Member

March , 1980
San Francisco, CA