

PUBLIC LAW BOARD NO. 2439

Award No. 143
Case No. 143

PARTIES : Brotherhood of Maintenance of Way Employees
TO : and
DISPUTE: Southern Pacific Transportation Company

STATEMENT
OF CLAIM:

"1. That the Carrier violated the current Agreement when it dismissed Mr. L. F. Valdez. Said action being excessive, unduly harsh and in abuse of discretion.

2. That the Carrier shall reinstate Claimant to his former Carrier position with seniority and all other rights restored unimpaired with pay for all wage loss suffered and his record cleared of all charges."

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.

The record reveals that Claimant entered Carrier's service on November 30, 1970. At the time of the incident herein on November 15, 1985, he was working as a Foreman of the system steel gang.

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testimony at the hearing (held on November 19, 1985) revealed that after reporting to work on November 15, Claimant was observed by his fellow employees, as well as the Regional Program Planner to be under the influence of alcohol. At the investigation, he admitted that he had been drinking beer in substantial quantity the evening before on November 14, 1985. Following the hearing, Carrier decided that Claimant was guilty of the charges levied against him and dismissed him for being under the influence of an intoxicant while on duty.

The record in this dispute indicates that Claimant was afforded a full and proper investigation by Carrier and there was substantial evidence to support the conclusion reached that he was under the influence of alcohol on the morning in question. After careful consideration, it is the Board's view that in the light of the Claimant's long service and the nature of his particular problem, he should be reinstated to his former position without compensation for time lost, but with seniority and all other rights restored unimpaired. However, this restoration to duty shall be conditioned upon his entering into a satisfactory program with the Employee Assistance Counselor in an effort to deal with his problem. He will not be allowed to assume his duty and his continued employment shall be conditioned upon his compliance with the Employee Assistance Counselor's program and monitoring.

AWARD

Claim sustained in part in accordance with the findings above: Claimant shall be restored to duty conditionally, but without compensation for time lost.

ORDER

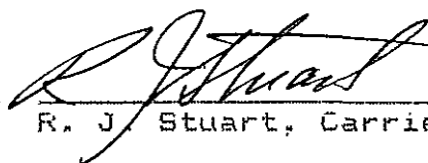
Carrier will comply with the Award herein within thirty days from the date hereof.



I. M. Lieberman, Neutral-Chairman



C. F. Foose, Employee Member



R. J. Stuart, Carrier Member

San Francisco, California

1-10, 1988