

PUBLIC LAW BOARD NO. 2439

PARTIES
TO
DISPUTE:

Southern Pacific Transportation Company (Western Lines)

and

Brotherhood of Maintenance of Way Employees

STATEMENT OF CLAIM:

1. That the Carrier violated the current Agreement when it dismissed Welder, R. C. Shinton, without the benefit of a fair and impartial investigation. Said action being excessive, unduly harsh and in abuse of discretion.
2. The Carrier shall now be required to reinstate Claimant to his former Carrier position with seniority and all other rights restored unimpaired, with compensation for all loss of earnings 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.

Claimant had been employed by Carrier on May 6, 1986. On August 16, 1989, he was awarded a position of welder on a welding gang, but did not report to his assignment as required. He was subsequently charged by letter dated September 11, of violations of Carrier's rules in connection with being absent from work without authority after being awarded the position in question. The rule, Rule

604, deals with the necessity for employees to report for duty at the designated time and place. The hearing was postponed twice, ultimately was held on October 17, 1989, but Claimant did not attend. He was represented by an organization official at that hearing. The record indicates that he received notice of the hearing well in advance of the date.

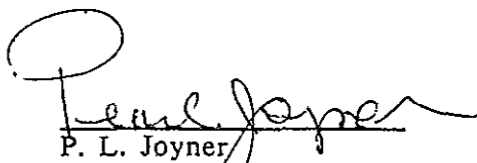
The record of the hearing indicates that Claimant was indeed absent without authority on the date in question. Furthermore, according to the record, he had been disciplined in the past via at least counselling for similar types of infractions. The Board can find no basis for disturbing Carrier's conclusion in this matter. The discipline seems appropriate and for a clear violation of Carrier's rules. The claim must be denied.

AWARD

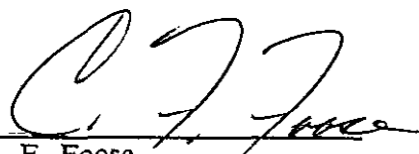
Claim denied.



I. M. Lieberman, Neutral-Chairman



P. L. Joyner
Carrier Member



C. F. Foote
Employee Member

San Francisco, California
April 30, 1993