

PUBLIC LAW BOARD NO. 2439

Award No. 19
Case No. 19

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

STATEMENT "1. That the Carrier violated the provisions of the current Agreement
OF CLAIM when on February 23, 1979 it suspended Mr. Richard A. Torres for a period of twenty (20) working days on charges not supported by the hearing record, said action being excessive, unduly harsh and in abuse of discretion.

2. That Claimant Torres be paid for all straight time and time and one half hours which he lost while suspended from his position as Foreman on Extra Gang No. 32 commencing February 3, 1979 and continuing through March 4, 1979."

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.

This is a Rule G case in which Claimant was alleged to have been found having been under the influence of alcohol while at work on February 3, 1979. Subsequent to the incident herein an investigation was held and as a result of the investigation Claimant was found guilty and penalized to the extent of a twenty working day suspension. It is noted that Claimant at the time had thirty years of seniority with Carrier and was a Foreman.

The evidence indicates that Claimant and members of his gang had worked eleven hours on February 2. Subsequent to that time Claimant was called back to work at 10:30 P.M. on the same night due to a snow storm which required his gang to perform the work of removing snow from switches on the main line tracks. Subsequently, after a num-

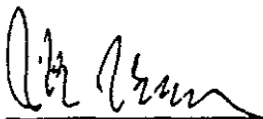
ber of other events the truck in which the gang was riding became stuck in the snow and the mud and another truck was dispatched to remove it from the mire. The second truck became mired down as well. Claimant radioed for further assistance and at approximately 5:50 A.M. such assistance came at which time the Roadmaster transported Claimant back to headquarters alleging that he was in violation of Rule G. After Claimant was removed from service, pending a formal hearing, the Roadmaster returned to the location of Claimant's truck and in the presence of other foremen searched the truck and produced a whiskey bottle from the front seat. At the investigatory hearing, Claimant while admitting that he took some drinks at dinner on the night in question, denied having been under the influence of alcohol and having had drinks later that night.

From the entire transcript of the investigation, it is evident that Carrier had substantial evidence upon which to base its conclusion that Claimant was in violation of Rule G. Furthermore, the credibility question was resolved by the Hearing Officer in favor of the Carrier's position.

With respect to the measure of discipline imposed, Carrier insists that such discipline was lenient. In view of the circumstances including Claimant's long years of service and the fact of the bad conditions and long hours of work on the day in question, Carrier can be commended for the leniency of its discipline. There is no doubt but that drinking or being under the influence of alcohol on the job is a serious offense in this industry as well as in other aspects of our business world. Under all the circumstances herein, there is no basis for disturbing the discipline imposed.

AWARD

Claim denied.


I.M. Lieberman, Neutral-Chairman


Carrier Member
March 1980


Employee Member