

PUBLIC LAW BOARD NO. 2439

Award No. 77
Case No. 77

PARTIES
TO
DISPUTE

Brotherhood of Maintenance of Way Employees
and
Southern Pacific Transportation Company (Western Lines)

STATEMENT
OF CLAIM

- "1. That the Carrier violated the provisions of the current agreement when it failed to promptly return Track Laborer Thomas L. Smedlund to his assigned position, said action being contrary to Award No. 64, Public Law Board No. 2439, punitive, capricious and in abuse of discretion.
2. Carrier shall now compensate claimant for all wage loss suffered commencing January 20, 1984, through March 18, 1984."

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 had been restored to duty in accordance with Award No. 64 of this Board. The facts indicate that his reinstatement was not handled in an expeditious manner since the instruction received by Carrier to reinstate claimant was dated December 15, 1983, and he was not reinstated until March 19, 1984. No explanation was offered indicating the reason for the inordinate delay in compliance with the earlier award of this Board. Such delay is not acceptable and the claim must be sustained. It must be noted, however, that the disposition of this matter will not serve as a precedent or be controlling with respect to the disposition of any other similar disputes since it is being resolved on its own facts only.

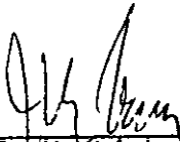
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AWARD


Claim sustained.

ORDER

Carrier will comply with the award herein within thirty
(30) days from the date hereof.


I.M. Lieberman, Neutral-Chairman


L. C. Scherling, Carrier Member


C. F. Foose, Employee Member

San Francisco, CA
October 3, 1984