

PUBLIC LAW BOARD NO. 2439

Award No. 94

Case No. 94

PARTIES
TO
DISPUTE

Southern Pacific Transportation Company
and
Brotherhood of Maintenance of Way Employees

STATEMENT
OF CLAIM

- "1. That the Carrier's decision to dismiss Machine Operator A. E. Decker was in violation of the provisions of the current agreement and in abuse of discretion.
2. Claimant will now be returned to the service of the Southern Pacific Transportation Company with seniority and all other rights restored unimpaired and with compensation for all wage loss suffered."

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.

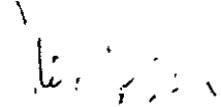
Claimant was a machine operator on Carrier's system steel gang working in the vicinity of Lucin, Utah, and living in modular mobile housing units near the work site. Based on certain events which took place on July 15, 1984, at about 1:00 A.M., claimant was charged with (among other things) making threats to other employees, being intoxicated, using marijuana, threatening a fellow-employee with a 20-gauge shotgun and a pistol, and also for destroying Company property by shooting a bunk bed in the modular unit with the shotgun.

Following an investigation which was held on July 24, 1984 (which claimant did not attend), he was found guilty of the charges and dismissed from Carrier's service. From an evaluation of the testimony adduced at the hearing, it is evident that the charges were well supported by the evidence introduced and, in fact, it was fortunate that no one was seriously injured by claimant's actions on the night in question. He was properly found guilty and the

penalty of dismissal was appropriate under all the circumstances.

AWARD

Claim denied.


I. M. Lieberman, Neutral-Chairman


C. Foose, Employee Member


L. Scherling, Carrier Member

San Francisco, California
January 31, 1986