

PUBLIC LAW BOARD NO. 2439

Award No. 96
Case No. 96

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 J. T. Ruffus from its service on May 8, 1984, was in violation of the agreement.
2. That Carrier shall now be required to reinstate Mr. Ruffus to his former position 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 dismissed from service for being absent without authority for 14 days from February 6 through March 22, 1984, and also for altering a doctor's release slip for several of those days.

From the entire record of this matter, several facts must be noted. First, it is evident that claimant did have a valid medical excuse for several of the days he was absent. Further, he alleges that he called in on most of the other days. Carrier does not agree, claiming that he called in on only one, or perhaps two, days. There is also a dispute with respect to the alleged alteration of the dates on the medical excuses. In addition, due to the nature of the remote workplace and motel living of the gang, including the foreman, communication was more difficult than normally the case.

Based on an evaluation of the entire record, it is believed that the discipline imposed to date is sufficient and that claimant should now be reinstated to his

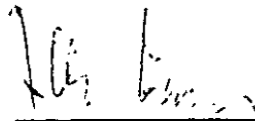
former position with all rights unimpaired but without compensation for time lost. The time out of work shall be considered to have been a disciplinary layoff. He must be made aware, additionally, that this is his last chance to conform to Carrier's rules.

AWARD

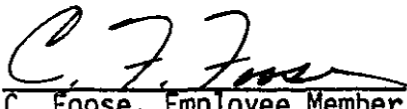
Claim sustained in part; claimant shall be reinstated to his former position with all rights unimpaired but without compensation for time lost. His time out of service shall be considered to have been a disciplinary layoff.

ORDER

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



I. M. Lieberman, Neutral-Chairman



C. Foose, Employee Member



L. Scherling, Carrier Member

San Francisco, California
January 31, 1986