

PUBLIC LAW BOARD NO. 2444

Award No. 14

Case No. 21

Docket No. MW 79-19

Parties Brotherhood of Maintenance of Way Employees
to and

Dispute: Southern Pacific Transportation Company
(Texas and Louisiana Lines)

Statement of Claim: 1. Carrier violated the effective Agreement when Houston Division Laborer Tony Osborne was unjustly dismissed on November 21, 1978.
2. Claimant Tony Osborne shall be reinstated to his former position with pay for all time lost, seniority, vacation and all other rights unimpaired due to his unjustly dismissal.

Findings: The Board, after hearing upon the whole record and all evidence, finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, that this Board is duly constituted by Agreement dated July 19, 1979, that it has jurisdiction of the parties and the subject matter, and that the parties were given due notice of the hearing held.

Claimant, a Laborer and member of System Extra Gang 51, headquartered at Houston, Texas, was dismissed from service November 21, 1978 by his Division Engineer for being absent without proper authority on November 16th and 17, 1978.

Claimant requested and was granted a hearing which was held on December 19, 1978. As a result thereof it was concluded that Claimant was guilty as charged and he was advised that his dismissal would stand.

Here, the record is clear as to Claimant's guilt inasmuch as he admitted that he was absent on November 16th and 17, 1978, that he had not obtained authority to be absent and that he was aware of the requirements of Rule M810 of his Agreement. The record further reflects that Claimant had lied. He testified the reason that he had been absent was because he had been jailed for having shot a burglar inside his home. However, in checking such story, Carrier discovered that there was neither a shooting nor that Claimant had been incarcerated.

In light of the circumstances and in view of Claimant's poor service record, this Board finds that Claimant was properly treated in accordance with his discipline rule. There was sufficient evidence adduced to support Carrier's conclusion. The discipline assessed was reasonable.

This Claim will be denied.

Award: Claim denied.

M.A. Christie

M. A. Christie, Employee Member

C.B. Goyne

C. B. Goyne, Carrier Member

Arthur T. Van Wart

Arthur T. Van Wart, Chairman
and Neutral Member

Issued at Salem, New Jersey, February 7, 1980.