

PUBLIC LAW BOARD NO. 2444

Award No. 23

Case No. 32

Docket No. MW 79-114

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
Lafayette Division Bridge Tender Calvin Duncan was
unjustly dismissed on June 16, 1979.

2. Claimant Calvin Duncan shall be reinstated to his
former position with all seniority, vacation and all
other rights unimpaired, in addition to all
compensation lost.

Findings: The Board, after hearing upon the whole record and 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 was advised by his Division Engineer, reading:

"You are dismissed from the service of Southern
Pacific Transportation Company for failure to report
damage to bridge at Houma, Louisiana on June 15, 1979
which is in violation of Rule M828 of General Rules
and Regulations and Structures of General Notice
effective April 1, 1978 of Southern Pacific
Transportation Company which reads in part as
follows:

'Rule M828. All cases of serious damage....must be
promptly reported to proper supervisor...'"

Claimant requested and was granted a hearing. It was held on July 17,
1979. Thereafter, Claimant was advised:

"I have reviewed the transcript of the hearing and this
is to advise you that the position as stated in my
letter of June 15, 1979 is sustained."


Claimant was accorded the due process to which entitled under his agreement.

There was sufficient evidence adduced, including Claimant's admissions, to support the conclusion reached by Carrier as to Claimant's culpability. Claimant was negligent in the performance of his duties. The degree of his negligence is typified by Claimant's answer to the question asked concerning the name of boat involved in the collision, "I wasn't aware of no name." He also testified that he failed to log the boat's name even when it went back out through the Carrier's open bridge and the highway bridge. Such failure was a direct violation not only of the standard procedure of the Southern Pacific but also a requirement of Maritime laws.

In the circumstances, the Board finds that the discipline was reasonable.
Award: This claim will be denied.


M. A. Christie, Employee Member


C. B. Goyne, Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member