

PUBLIC LAW BOARD NO. 2444

Award No. 24

Case No. 33

Docket No. MW 79-80

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 Track Laborer Paul J. Clair was unjustly dismissed on May 15, 1979.

2. Claimant Paul J. Clair shall now be reinstated to his former position, with pay for all time lost, vacation, seniority and all other rights unimpaired.

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, a Track laborer on Section 4, assigned to the Avon Terminal, was advised by his Division Engineer under date of May 15, 1979:

"You are dismissed from the service of Southern Pacific Transportation Company for being absent from your place of employment on May 12, 1979, Saturday, as Track Laborer, Lafayette Division, without proper authority, which is in violation of Rule 810 of the General Rules and Regulations of the General Notice effective April 1, 1978 of the Southern Pacific Transportation Company, which reads as follows:

'Rule 810. Employees must report for duty at the prescribed time and place, remain at their post of duty, and devote themselves exclusively to their duties during their tour of duty. They must not absent themselves from their employment without proper authority...'"

Claimant requested and was granted a hearing which was held on Tuesday, June 5, 1979. As a result thereof, Claimant was advised:

"I have reviewed the transcript of the hearing and this is to advise you that my position as stated in my letter of May 21, 1979 is sustained."

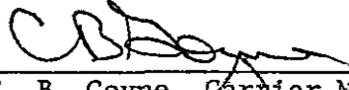
The record reflects that Claimant's wife called in at approximately 8:10 AM on May 12, 1979, to advise that Claimant would not be in, that he had been involved in a car wreck the previous evening and that he was getting his car fixed. Claimant admitted that he did not have authority to be off and that he was not at work on May 12th. Thus, Claimant had violated Rule 810.

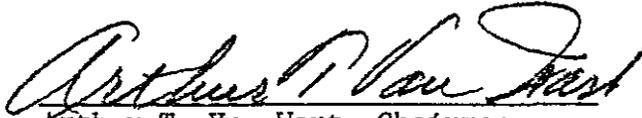
The Board finds circumstances which, will, in the particular circumstances, serve to mitigate the discipline assessed. We will reinstate Claimant to service with all rights unimpaired but without pay, subject to his passing the usual return to service medical examination.

Award: Claim disposed of as per findings.

Order: Carrier is directed to make this Award within thirty (30) days of date of issuance shown below.

  
M. A. Christie, Employee Member

  
C. B. Goyne, Carrier Member

  
Arthur T. Van Wart, Chairman  
and Neutral Member