

PUBLIC LAW BOARD NO. 2444

Award No. 26

Case No. 35

Docket No. MW 79-134

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
Laborer Larry D. Levine was unjustly dismissed from
Carrier's service on August 3, 1979.

2. Claimant Larry D. Levine shall 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 laborer was advised under date of August 3, 1979 that:

"You are dismissed from the service of Southern
Pacific Transportation Company for being absent
from your employment as Lafayette Division Track
Laborer without authority continuously since
July 19, 1979, which is a violation of that portion
of Rule 810 of General Rules and Regulations of
General Notice effective April 1, 1978, of the
Southern Pacific Transportation Company, which
reads as follows:

'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
September 20, 1979. Thereafter, he was advised that:

"I have received the transcript of the hearing and
this is to advise you that the position as stated in
my letter of August 3, 1979 is sustained."

The Board finds that Claimant was accorded the due process to which entitled under his investigation discipline rule.

There was sufficient evidence adduced, including Claimant's admissions against interest, to support Carrier's conclusion as to Claimant's culpability. Claimant admitted that he was not at work on July 19, 1979 and that he did not have authority to be off.

The Board finds that the discipline in the circumstances is reasonable. Claimant's service record indicates that he had been previously dismissed for violation of Rule 810. Although Claimant attempted to assert in the instant case that he was ill, unfortunately for him, he failed to produce supporting evidence thereon. In the circumstances, this claim will be denied.

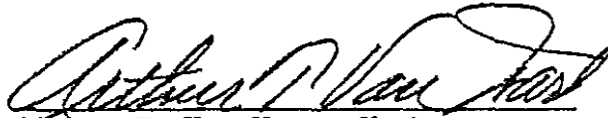
Award: Claim denied.



M. A. Christie, Employee Member



C. B. Goyne, Carrier Member



Arthur T. Van Wart, Chairman
and Neutral Member