

PUBLIC LAW BOARD NO. 2444

Award No. 28

Case No. 37

Docket No. MW-79-155

Parties	Brotherhood of Maintenance of Way Employees
to	and
Dispute	Southern Pacific Transportation Company (Texas and Louisiana Lines)
Statement of Claim	<p>1. Carrier violated the effective Agreement when Track Laborer Eugene Landry was unjustly dismissed by letter dated September 19, 1979.</p> <p>2. Claimant Landry shall be reinstated to his former position with pay for all time lost, vacation, seniority, and all other rights unimpaired.</p>
Findings	<p>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.</p> <p>Claimant, a track laborer on Lafayette Division Extra Gang No. 129, was dismissed from service under date of September 19, 1979 for absenting himself from his position without proper authority during an emergency situation on September 18, 1979. As a result of the hearing requested and granted, Carrier concluded that the evidence supported its original decision.</p> <p>The Board finds that Claimant was accorded a fair hearing, that there was sufficient evidence adduced to support</p>

Carrier's conclusion and that while there was a conflict in the testimony Carrier chose to believe the testimony of its witnesses. The record reflects no abuse of such discretion.

In the circumstances 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 Wilmington, Delaware, April 16, 1981.