

PUBLIC LAW BOARD NO. 2444

Award No. 40

Case No. 53

Docket No. MW 80-122

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 B&B Carpenter J. J. Contreras was unjustly dismissed by letter dated June 19, 1980.

2. Claimant Contreras 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 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 B&B Carpenter had been employed by Carrier for two years. He was advised, under date of June 19, 1980, as follows:

"On June 16, 1980 you failed to protect your job assignment by absenting yourself from your job without proper authority which is in violation of Rule M810 of the General Rules and Regulations of the Southern Pacific Transportation Company as posted by General Notice. Rule M810 reads in part as follows:

Rule M810: Employees must report for duty at the prescribed time and place....They must not absent themselves from their employment without proper authority..."

For your violation of Rule M810, you are dismissed from

your service with the Southern Pacific Transportation Company...."

Claimant requested and was granted a hearing. As a result thereof Carrier concluded that the discipline should be sustained.

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

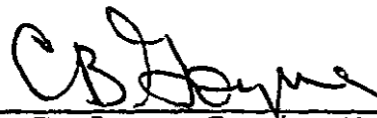
There was sufficient evidence adduced to support Carrier's conclusion as to Claimant's culpability.

The record indicates that Claimant's discipline record was assessed fifty (50) demerits on June 21, 1978 for violation of Rule M810 and 811. On August 16, 1978 he was suspended for fourteen (14) days for violation of Rule 810. On May 2, 1980 Claimant was suspended for twenty-one (21) days for violation of Rule M810. He was dismissed from service for the violation which occurred on June 16th, which resulted in the instant case.

Due to Claimant's lack of interest in protecting his job the Board finds no cause on the record to conclude that Carrier had acted in an unreasonable or arbitrary manner so as to constitute an abuse of its discretion. 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

Issued at Falmouth, Massachusetts, June 10, 1982.