

PUBLIC LAW BOARD NO. 2444

Award No. 44

Case No. 57

Docket No. MW 80-138

Parties Brotherhood of Maintenance of Way Employees

to and

Dispute Southern Pacific Transportation Company
(Texas and Louisiana Lines)

Statement 1. Carrier violated the effective Agreement when Bridge of Tender Leonard L. Blackwell, Jr. was unjustly assessed 30

Claim demerits on June 17, 1980.

2. The 30 demerits shall now be removed from Claimant Blackwell's personal record.

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 Bridge Tender, was advised, by letter dated April 18, 1980:

"Your personal record is being assessed thirty demerits for being absent from your employment as bridge tender without proper authority on June 17, 1980 which is in violation of Rule M810 of the General Rules and Regulations of General Notice effective April 1, 1978, of Southern Pacific Transportation Company, which reads in part as follows:

'Rule M810. 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, responded thereto, under date of June 24, 1980:

"Please accept this letter from me as an apology. I have been issued thirty demerits for violation of Rule M810 on June 17th. My wife was pregnant at the time and had difficulties and I was so concerned with her that, and I just failed to realize what time was and called in after the time that I was supposed to be at work. I accept the demerits and wanted to let you know that it wasn't done intentionally. Please accept my apology."

(Underscoring supplied)

The underscored letter above indicates that Claimant had accepted the discipline assessed. Hence, having admitted his guilt the only issue before the Board is whether the discipline assessed was unreasonable in light of the offense for which charged.

The Board does not find that the record would permit it to alter the discipline assessed. Therefore, absent a showing that there had been an abuse of discretion on the part of Carrier, we can not in the circumstances here, find that the discipline assessed was unreasonable. 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.