

PUBLIC LAW BOARD NO. 2444

Award No. 55

Case No. 69

Docket No. MW 81-82

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 E. G. Scott was unjustly dismissed on January 29, 1981.

2. Claimant Scott shall now be reinstated to his former position with all seniority, vacation rights and any other rights accruing to him unimpaired, in addition to all compensation lost commencing February 2, 1981, and to run concurrently until such time that he is restored to service.

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 track laborer on Tie Gang 68, Lafayette Division, had been employed some two years when he was advised on February 6, 1981 as follows:

"You are dismissed from the service of the Southern Pacific Transportation Company for being absent from your employment as Lafayette Division Track Laborer without proper authority on January 29, 1981, which is in violation of Rule M810 of the General Rules and Regulations of General Notice effective April 1, 1978, of the Southern Pacific Transportation Company which reads as follows:

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 requested and was granted a hearing which was finally held on March 17, 1981. As a result thereof Claimant was advised that the discipline previously assessed was sustained.

The Board finds that Claimant was accorded the due process to which entitled.

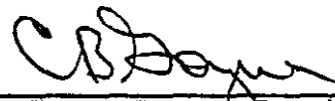
There was sufficient evidence to support Carrier's conclusion as to Claimant's guilt.

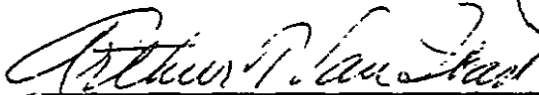
The Board finds that there are circumstances which serve to mitigate the discipline assessed. Claimant will be returned to service with all rights unimpaired but without any pay subject to his passing the usual examinations, and he will be placed in a probationary status for a six month period.

AWARD: Claim disposed of as per findings.

ORDER: Carrier is directed to make this Award effective 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

Issued at Falmouth, Massachusetts, June 10, 1982.