

PUBLIC LAW BOARD NO. 2444

Award No. 63

Case No. 77

Docket No. MW-81-134

Parties Brotherhood of Maintenance of Way Employees
to and
Dispute Southern Pacific Transportation Company
(Texas and Louisiana Lines)

Statement

of Claim: Claim of BMWE and Track Laborer Steve Anderson for reinstatement to his former position with all seniority, vacation rights and other rights accruing to him unpaid, in addition to all compensation lost commencing May 21, 1981 and to run concurrently until such time that he is restored to service, alleging unjustly dismissed:

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 who had been employed for some 7 months, was advised under date of May 28, 1981, by the Regional Maintenance of Way Manager, in part, as follows:

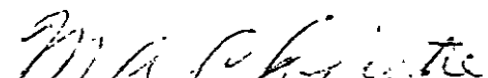
"You are dismissed from the service of Southern Pacific Transportation Company for throwing a rock at a woman passer-by on May 21, 1981, which Laborer/Driver R. C. Green objected to, upon which you left the Company property to retrieve a stick from your personal automobile, then returned to the Company property and your job site, and proceeded to quarrel with Mr. R. C. Green then struck Mr. Green on the hand causing several bruises, which is in violation of Rules 801, 802 and 811 of the General Rules and Regulations of the General Notice effective April 1, 1978 of Southern Pacific Transportation Company..."

The Board finds that Claimant was accorded the due process to which entitled under his discipline rule. There was sufficient evidence adduced, including the admissions of Claimant, to support the conclusions reached by Carrier as to Claimant's culpability. Claimant admitted that he had thrown a rock at the woman walking down the track although he alleged that he missed her. His testimony was contrary to that of Laborer/Driver Green, who Claimant had assaulted and committed battery upon with a maul handle. Carrier resolved the conflict in the testimony. The record reflects no abuse of such discretionary right.

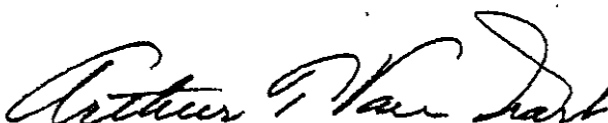
Claimant's conduct was not that becoming of an employee. It was not normal or conducive to a safe employee relationship. If Claimant were to be retained in the service it would portend problems for Claimant's fellow employees, the public, and for Carrier's liability for the protection of its employees and the public.

In the circumstances, the Board finds the discipline to be reasonable. 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 May 11, 1983.