

PUBLIC LAW BOARD NO. 2444

Award No. 65

Case No. 79

Docket No. MW-81-140

Parties Brotherhood of Maintenance of Way Employees
to and

Dispute Southern Pacific Transportation Company
(Texas and Louisiana Lines)

Statement

of Claim: Claim of BMW and Track Laborer Joseph E. Lynch for an arbitrary and penalty payment of 88 hours at his respective straight time rate of pay, ten days trailer allowance and his record cleared of all charges, unjustly suspended from service from April 23 through May 6, 1981:

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 was advised by the Regional Maintenance of Way Manager, under date of April 28, 1981, in part, as follows:

"You are suspended from the service of Southern Pacific Transportation Company for ten (10) working days effective April 23, 1981 through May 6, 1981, for not complying with instructions issued you by Track Foreman R. C. Macias on or about April 22, 1981, which is in violation of Rule 801 and also, for your use of vulgar language to foreman ilacias, which is in violation of Rule 802 of the General Rules and Regulations of the General Notice of Southern Pacific Transportation Company..."

Claimant requested and was granted an investigation, on June 9, 1981. Carrier concluded therefrom that the discipline assessed should be sustained.

An analysis of this case permits the conclusion that the facts did not warrant the imposition of the discipline as assessed. No good purpose is served by a recitation of the record.

The Board concludes that the discipline assessed Claimant should be reduced to five (5) days and that his record be adjusted thereby. However, no trailer pay allowance will be awarded.

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 May 11, 1983.