

PUBLIC LAW BOARD NO. 2444

Award No. 68

Case No. 82

Docket No. MW-81-145

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 Chester Walton of Extra Gang 137 at Avondale, La., for an arbitrary and penalty payment of 80 hours pay at Track Laborer's respective pro rata rate and eight hours pay lost while attending the hearing in addition to having his personal work record cleared of the alleged charges of violating company Rules 801 and 802 on July 2, 1981, alleging unjustly suspended:

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 Track Laborer was advised under date of July 2, 1981, by Regional Maintenance of Way Manager, W. H. Bristow, in part, as follows:

"You are suspended from the service of Southern Pacific Transportation Company for ten (10) working days without pay from July 3, 1981, through July 16, 1981, for being insubordinate and quarrelsome and also for having an indifference to duty on July 2, 1981, at 7:40 AM with Extra Gang Foreman J. W. LeBlanc, which was in violation of Rules 801 and 802 of the Rules and Regulations of General Notice effective April 1, 1978,..."


An investigation requested by Claimant was granted and held on July 23, 1981. As a result thereof Claimant was advised that the suspension was being upheld.

We find that here Carrier erred in its conclusions and in the assessment of discipline. Foreman LeBlanc who was abusive and conducted himself in a manner which certainly was not reflective of the conduct normally displayed by a Foreman, was the employee that should have been disciplined and not Claimant. Notwithstanding, this record just does not support the conclusions reached by Carrier. This claim will be sustained.

Award: Claim sustained.

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.