

PUBLIC LAW BOARD NO. 2444

Award No. 71

Case No. 85

Docket No. MW-81-159

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 John L. Evans, Jr., for reinstatement to his former position with pay for all time lost, seniority rights, vacation rights and all other rights unimpaired, and his record cleared of all charges, 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 was advised by the Regional Maintenance of Way Manager under date of June 23, 1981 in part as follows:

"You were absent from your job assignment without proper authority June 17, 18, 19, and 22, 1981 which is in violation of Rule MB10 of the General Rules and Regulations of the Southern Pacific Transportation Company, as posted by General Notice.

For your violation of Rule 810, you are dismissed from service of the Southern Pacific Transportation Company..."

Claimant requested and was granted a hearing which was held July 15, 1981. As a result thereof, Claimant was advised that the discipline was sustained.

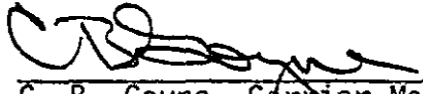
Here, there is no question as to the guilt of Claimant. There was a sufficiency of evidence adduced to support such a conclusion.


However, there were circumstances present which serve to mitigate the discipline. Claimant will be conditionally reinstated to service with all rights unimpaired but without pay subject to the following: He is to meet with his Local Chairman and Carrier's local officer to clearly understand his obligation to protect the requirements of service, thereafter Claimant will then be placed on a one year probationary status which he is to understand that thereby he may, if proven, be dismissed for any violation of his probation in addition to any other cause which, if also proven, would provide Carrier with the right of discipline.

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.