

PUBLIC LAW BOARD NO. 2444

Award No. 76

Case No. 90

Docket No. MW-81-182
329-9-A

Parties Brotherhood of Maintenance of Way Employees

to and

Dispute Southern Pacific Transportation Company
(Texas and Louisiana Lines)

Statement

of Claim: We are appealing to you a claim on behalf of Machine Operator J. L. Simmons for reinstatement as track liner operator and the disqualification be stricken from his record and his record be cleared of all charges due to his unjustly disqualification on August 7, 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 a System Machine Operator was assigned to operate Track Liner 167 RC on July 16, 1981. Under date of August 11, 1981, the Regional Maintenance of Way Manager wrote Claimant as follows:

"On August 6, 1981, it was discovered by District Manager Flores that you were operating your machine, Track Liner 167 RC, in an unsatisfactory and unsafe manner which is in violation of Rule 801 of the General Rules and Regulations of the Southern Pacific Transportation Company as posted by General Notice.

For your violation of 801 you are disqualified as operator of Track Liner 167 RC or any other track liner, effective August 7, 1981. You may exercise your seniority as assistant machine operator on any other machine."

Claimant requested and was granted a hearing which was held on September 30, 1981. As a result thereof Carrier concluded that the disqualification of Claimant should stand.

The Board finds that Claimant was properly disqualified in this instance. However, the record supports the recommendation that Claimant be afforded the first opportunity to qualify for the next Track Liner vacancy consistent with his seniority. In such instance, however, care should be taken to see that Claimant is afforded adequate instruction.

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 March 14, 1983.