

PUBLIC LAW BOARD NO. 2444

Award No. 79

Case No. 93
Docket No. MW-81-186
329-16-A

Parties Brotherhood of Maintenance of Way Employes

to and

Dispute Southern Pacific Transportation Company
(Texas and Louisiana Lines)

Statement

of Claim: Claim of BMW and Machine Operator F. G. Washington for reinstatement to his former position with pay for all time lost, with all seniority, vacation, and all other rights due him unimpaired, in addition to all pay lost commencing August 24, 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 was advised, under date of August 24, 1981, by the Regional Maintenance of Way Manager, in part, as follows:

"You are dismissed from the service of the Southern Pacific Transportation Company for absenting yourself from your employment on August 21, 1981, at approximately 12:00 noon, without proper authority. This is in violation of Rule M 810 of General Rules and Regulations of General Notice effective April 1, 1978... which reads in part as follows:

Rule M 810. Employees must report for duty at the prescribed time and place... They must not absent themselves from their employment without proper authority."

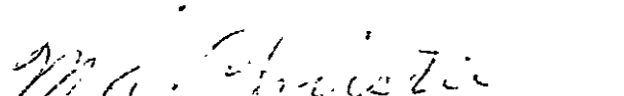
Following the hearing, which Claimant requested, he was advised that the discipline assessed was sustained.


The Board finds that the Claimant was accorded the due process to which entitled under his discipline rule. It was not error for Carrier to have continued the investigation in Claimant's absence inasmuch as he had failed to request a postponement in advance thereof. Claimant's allegation that he encountered an auto failure enroute thereto was not supported by the record.


There was sufficient evidence adduced to support Carrier's conclusion as to Claimant's culpability.

In light of Claimant's propensity for absenteeism, as reflected by his record, the Board finds that the discipline assessed was not excessive, arbitrary or capricious. 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 March 14, 1983.