

PUBLIC LAW BOARD NO. 2444

Award No. 8

Case No. 12

Docket No. MW-78-131

Parties Brotherhood of Maintenance of Way Employees

to and

Dispute: Southern Pacific Transportation Company
(Texas and Louisiana Lines)

Statement of Claim: 1. Carrier violated the effective Agreement when Arthur R. English was unjustly dismissed on August 1, 1978.
2. Claimant Arthur R. English shall be reinstated to his former position with all seniority, vacation and all other rights unimpaired, and be paid for all time lost due to being 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 Track Laborer was advised, under date of August 1, 1978, by his Division Engineer as follows:

"You are dismissed from the service of Southern Pacific Transportation Company for absenting yourself from your employment without proper authority on July 31, 1978, which is in violation of Rule 810 of the General Notice.... which reads in part as follows:

'Rule 810. Employes must report for duty...they must not absent themselves from their employment without proper authority...'. "

Claimant requested and was granted a hearing held on August 22, 1978. As a result thereof he was advised as follows:

"...This is to advise you that the position as stated in my letter of August 1, 1978 is sustained."

The Board finds that Claimant was accorded the due process to which entitled under his Discipline Rule. The fact that Claimant failed

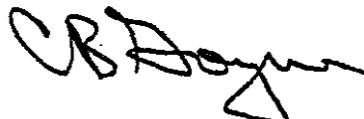
to attend his hearing, which was held in absentia, does not serve to disturb the conclusions reached by Carrier. Claimant is bound by the record developed therein.

Such record provided sufficient evidence to support the conclusion reached by Carrier as to Claimant's culpability.

Claimant's action in the instant case was no different than that in several previous other incidents. The discipline assessed in the circumstances was fair and reasonable. This claim will be denied.

Award: Claim denied.


M. A. Christie, Employee Member


C. B. Goynes, Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member

Issued at Salem, New Jersey February 7, 1980.