

PUBLIC LAW BOARD NO. 2444

Award No. 9

Case No. 13

Docket No. MW-78-132

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 Laborer E. Alexander was unjustly dismissed July 24, 1978.
2. Claimant E. Alexander shall be reinstated to his former position with pay for all time lost, and with all seniority, vacation and other rights unimpaired, due to his being unjustly dismissed by letter dated July 24, 1978.

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 Laborer was dismissed July 24, 1978 by notice from his Division Engineer for being absent from his job in violation of Rule 810, which, in pertinent part, reads:

"Employes must report for duty at the prescribed time and placeThey must not absent themselves from their employment without proper authority."

Claimant requested and was granted a hearing August 15, 1978. As a result thereof Carrier concluded that Claimant was guilty and sustained his dismissal.

The record reflects that Claimant alleged that he was sick and that he had to see a doctor. The Roadmaster gave him permission to be off to see the doctor on July 16, 1978. However, Claimant did not see his doctor until after he was dismissed. Further investigation revealed

that Claimant's doctor had seen Claimant on only three occasions. Once in February for a flu syndrome, once in July for headaches, nervousness and flu symptoms and once in August for a return to work evaluation. The doctor further stated that he had never treated the Claimant for high blood pressure as Claimant had alleged. Claimant was shown to be not honest and had sought to be off under false pretenses. The record is conclusive that Claimant was attempting to avoid service.

Claimant had been accorded due process to which entitled under his Discipline Rule.

There was sufficient evidence to support Carrier's conclusion. In view of Claimant's poor service record, the discipline assessed is found to be reasonable. 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 at Salem, New Jersey, February 7, 1980.