

PUBLIC LAW BOARD NO. 2444

Award No. 94

Case No. 107

Docket No. MW-82-180

Parties Brotherhood of Maintenance of Way Employees

to and

Dispute Southern Pacific Transportation Company
(Texas and Louisiana Lines)

Statement

of Claim: Claim of BMW Laborer Driver C. E. Kirkwood for reinstatement to his former position with all seniority, vacation rights and any other rights accruing to him unimpaired, in addition to all compensation lost May 20, 1982, and to run concurrently, 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, who had been employed, almost some five years, was advised under date of May 24, 1982 by Carrier's Assistant Regional Engineer, as follows:

"You are dismissed from the services of Southern Pacific Transportation Company effective May 20, 1982 for your unsafe operation of vehicle No. L-86 on May 17, 1982 at approximately 3:00 PM near M.P. 282.40 Beaumont, Texas when you backed vehicle onto signal case causing considerable damage to case.

This was carelessness on your part and is in violation of Rule 801 of the General Notice of the General Rules and Regulations effective April 1, 1978 of Southern Pacific Transportation Company which reads in part as follows:

'Rule 801. Employees will not be retained in the service who are careless...'"

A formal hearing, as requested, was scheduled and held on August 3, 1982. Claimant was thereafter advised that the evidence addressed was conclusive as to his guilt and that the discipline assessed was sustained.

The damage to the signal case amounted to \$2,000.

The Claimant was accorded the due process to which entitled.

There was sufficient evidence adduced, including the admissions of Claimant that he had backed the truck into the signal case, to support the conclusions reached by Carrier as to Claimant's guilt. Claimant's admissions were in effect a plea of guilty. Thus, leaving only the burden to question of discipline.

In view of Claimant's discipline record, the discipline of dismissal 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 October 21, 1983.