

PUBLIC LAW BOARD NO. 2556

Award No. 19

Case No. 25

Docket No. MW-361

Parties Brotherhood of Maintenance of Way Employees
to and
Dispute Southern Railway Company
 Georgia, Southern and Florida Railway Company

Statement
of Claim: Claim on behalf of Former Track Laborer Leon McConnehead
 for reinstatement and pay for all time lost as a result
 of his dismissal on April 27, 1981 for conduct unbecoming
 an employee and violation of Rule G.

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 October 17, 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 as a result of an on-duty injury which
occurred in September of 1980 filed a claim with Carrier's Claim Department.
He had discussions with said department's Agent located at Valdosta,
Georgia. Said Agent, B. C. Hooker, offered to pay Claimant \$1,000.00 in
disposition of the matter. On March 20, 1981, Claimant accepted such
offer. A release was executed and Claimant was given a draft for
\$1,000.00 from Claim Agent Hooker.

Apparently, because Claimant's bank advised that it would take a
few days for said draft to clear he returned to Claim Agent Hooker's
office and was given an explanation therefor which was to the effect that
this was the usual way it was done and that it would take a few days to
clear.

Claimant, on April 3, 1981, again returned to the Agent's office
because the draft had not yet cleared. As a result of his abusive conduct
and activities at that time he was subsequently charged with conduct
unbecoming an employee and with violation of Carrier's Operating Rule "G."

He was requested to appear at a formal investigation which was held on April 16, 1981. On April 27, 1981 Claimant was advised of the results of the investigation, in part, reading as follows:

"The investigation record clearly reflects that you did, in fact, threaten Claim Agent Hooker, and further that you were distinctly under the influence of alcohol at the time of this occurrence.

In this respect, it is quite obvious that you were guilty of conduct unbecoming an employee as well as your violation of our Operating Rule "G."

For your responsibility and failure in this respect, along with violation of Operating Rule "G," this is to advise that you are dismissed from service..."


The Board finds that Claimant was accorded the due process to which entitled under his Agreement Rule (Rule 43).

There was sufficient competent, credible and probative evidence adduced at the investigation to support Carrier's conclusion as to Claimant's guilt. Claim Agent Hooker, among other things, testified that because of Claimant's conduct he feared for his safety and that he requested the presence of the police department. In addition, corroborating the evidence of Agent Hooker was Carrier witness, Mr. Sam Register of the Georgia State Health Department, who occupied the adjacent office.

The Board in the circumstances, in light of the offense and Claimant's record, finds that the discipline assessed was reasonable. This claim will be denied.

Award: Claim denied.


B. L. Hall, Employee Member


R. S. Spenski, Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member