

Award No. 21

Case No. 27

Docket No. MW-368

Parties Brotherhood of Maintenance of Way Employees

to and

Dispute Southern Railway Company

Statement of Claim: Claim of former Laborer C. E. Smith that he be reinstated and paid for all time lost as a result of his dismissal on June 5, 1981 for 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.

The Board finds Claimant was accorded the due process to which he was entitled under Agreement Rule 40.

There was sufficient evidence adduced to support Carrier's conclusion as to Claimant's guilt in violating Rule G.

There were circumstances which serve to mitigate the discipline assessed. Claimant had over 22 years service. The Board will conditionally reinstate Claimant to service with all rights unimpaired but without any pay for time out of service, subject to the following conditions:

Claimant is to enter and complete Carrier's Alcohol Rehabilitation Program, and if Carrier's Rehabilitation Counselor be satisfied, the Claimant is to thereafter enter a Local AA Program and attend their meetings with regularity for the duration of a one-year probationary status into which he is herewith placed.

The Claimant must also pass the Carrier's return to service physical examination.

If these conditions of conditional reinstatement are not satisfactory to Claimant and he either affirmatively or, in the alternative, fails to accept and respond to these conditions within 30-days after notification, his claim will be considered denied as of that time.

Award: Claim disposed of as per findings.

Order: Carrier is directed to make this award effective within thirty (30) days of issuance shown below.

Byron L. Hall (D.P.P.)  
B. L. Hall, Employee Member

D. N. Ray  
D. N. Ray, Carrier Member

Arthur T. Van Wart  
Arthur T. Van Wart, Chairman  
and Neutral Member

Issued May 16, 1983