

PUBLIC LAW BOARD NO. 3445

Award No. 15

Case No. 15

PARTIES TO DISPUTE:

Brotherhood of Maintenance of Way Employees

And

Southern Railway Company

STATEMENT OF CLAIM:

Claim that East Point, Georgia Track Laborer M.J. Turner be paid for all time lost while suspended September 13 through 17, 1982 for failing to properly protect his assignment.

FINDINGS:

Claimant, at the time of the incident in question, was employed by Carrier as a track laborer at East Point, Georgia.

Claimant was notified to attend an investigation concerning charges that he failed to protect his assignment on August 23, 1982. An investigation was held on August 31, 1982.

By letter dated September 8, 1982, Claimant was informed that he was being suspended from service for the period from September 13 through September 17, 1982.

The issue to be decided in this dispute is whether Claimant was disciplined by Carrier for just cause under the Agreement.

The position of the Carrier is that Claimant was properly disciplined for failure to protect his assignment on the date in question. The Carrier contends that Claimant failed to receive proper permission for his absence. In support of its position, the Carrier cites Claimant's own testimony, which Carrier alleges establishes that he knew his responsibility was to contact his supervisor and yet failed to do so. The Carrier further cites the testimony of Supervisor B.G. Peterson, who testified that Claimant did not obtain permission to be absent from work. Mr. Peterson also testified that employees are required to contact the Division Engineers office in the event of his absence, and that Claimant did not follow proper procedure. Finally, the Carrier cites the testimony of Foreman W.C. Resseau, who testified that Claimant was cognizant of the proper procedure for requesting an excused absence.

The Carrier contends that it has a right to expect its employees to protect their assignments, and cites several awards holding that failure to protect an assignment constitutes grounds for discipline.

The position of the Organization is that the discipline imposed was unjustified under the circumstances. The Organization contends that Claimant made a good-faith effort to contact the proper authority and therefore should not have been disciplined.

The Organization alleges that Claimant acted reasonably in contacting another employee at the office due to Supervisor Peterson's absence. The Organization further contends that

Claimant would have been allowed to mark off on the date in question in any event, and should not have been disciplined. In support of its position, the Organization cites the testimony of Foreman Resseau, who testified that he would have given Claimant permission to be absent had he contacted him.

The Organization concludes that Claimant acted reasonably under the circumstances and therefore should not have been disciplined by the Carrier.

After review of the entire record, the Board finds that the Claim must be denied.

It is not the purpose of this Board to rehear an investigation that the Carrier held but only to determine if the discipline imposed was arbitrary, capricious or an abuse of discretion.

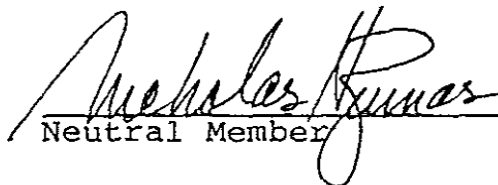
The Carrier has established that Claimant failed to properly obtain permission for his absence on the date in question, thereby failing to protect his assignment. There is no dispute as to the fact that Claimant was absent and that he failed to contact the proper party to receive permission for absence. The testimony given indicated that Claimant was aware of the proper procedure concerning absences. Therefore, he should have been aware of the need to contact his supervisor or other proper official. Finally, the fact that Claimant would have received permission is not dispositive; the Carrier has a right and need to know about its employees' attendance and this


requires that employees follow proper procedure. The fact remains that Claimant did not receive proper permission for his absence, and we, therefore, find that he failed to protect his assignment as alleged by Carrier.

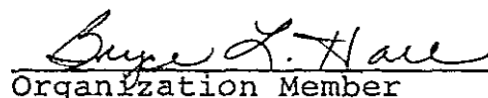
Finally, we find that the discipline imposed was not excessive. We agree with those awards cited by Carrier holding that failure to protect employment is a serious offense warranting discipline. As stated above, the Carrier has a right to expect its employees to cover their assignments or receive proper permission to be absent. In the present case, we find that Claimant failed to do either. Under the circumstances, we find the discipline imposed to be reasonable.

AWARD:

Claim denied.


Neutral Member


Carrier Member


Organization Member

Date: 11/13/85