

PUBLIC LAW BOARD NO. 3558

PARTIES) BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES
TO)
DISPUTE) SOUTHERN PACIFIC TRANSPORTATION CO. (EASTERN LINES)

STATEMENT OF CLAIM:

"Claim on behalf of Track Foreman C. W. Ogburn for 160 hours at his straight time rate of pay and his personal record cleared of charges account being unjustly suspended from service."
(MW-84-26)

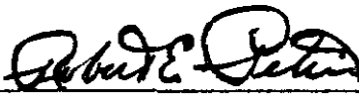
FINDINGS:

The Board, after hearing upon the whole record and all the evidence, finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended; this Board has jurisdiction over the dispute involved herein; and, the parties were given due notice of hearing thereon.

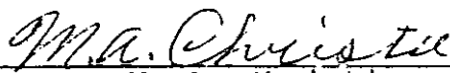
A careful review of the transcript of hearing and the record as developed and presented in support of Carrier's disciplinary action reveals that testimony presented against the Claimant contains a number of misleading and incorrect statements relative to Claimant's supervisory functions as related to his role in the incident which gave rise to the charge. Accordingly, the burden of proof in a disciplinary action resting with the Carrier, and it being responsible for the development and introduction of facts and not wrongful assertions, we will hold that the disciplinary action taken by the Carrier was arbitrary and in bad faith. The claim will be sustained.

AWARD:

Claim sustained.


Robert E. Peterson, Chairman
and Neutral Member


C. B. Gayne
Carrier Member


M. A. Christie
Organization Member

Houston, TX
February 4, 1986