

PUBLIC LAW BOARD NO. 3558

PARTIES)	BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES
TO)	
DISPUTE)	SOUTHERN PACIFIC TRANSPORTATION COMPANY
		EASTERN LINES

AWARD

STATEMENT OF CLAIM:

"1. Carrier violated the effective Agreement when Houston Division Machine Operator D. V. Keeling was unjustly dismissed from service.

2. Claimant Keeling shall now be paid for all time lost commencing March 16, 1987, and on a continuing basis, with seniority, vacation and all other benefits restored intact and with charge letter of February 20, 1987, removed from his personal record." (MW-87-66)

OPINION OF BOARD:

Claimant, a Houston Division machine operator, has been employed by the Carrier since January 4, 1981. As a result of charges dated February 20, 1987, investigation held on March 2, 1987 and by letter dated March 13, 1987, Claimant was dismissed from service for failing to protect his employment when he was absent from duty after February 2, 1987.

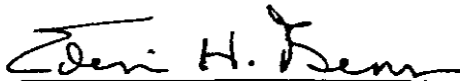
The record shows, and it is undisputed, that after February 2, 1987, Claimant was absent without permission. At the hearing, Claimant gave the reasons for his absence as including personal problems.

We are satisfied that substantial evidence supports the Carrier's conclusion that Claimant violated Rule 604 by absenting himself from duty without proper authority. However, in light of the extenuating circumstances presented, we believe that dismissal was excessive and Claimant can be returned to service under the provisions set forth below.

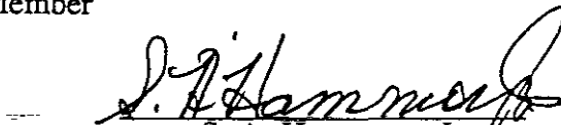
AWARD:

Claimant shall be returned to service with seniority and other benefits unimpaired but without compensation for time lost. Under the unique circumstances of this case and only for the purposes of this case, return to service is conditioned upon the following:

1. Claimant's successful completion of a return to service physical examination including testing for drugs and/or alcohol.
2. If such examination is passed by Claimant, Claimant must meet with a designated EAP Counselor and adhere to the program, if any, that is established by the Counselor.


Edwin H. Benn, Chairman
and Neutral Member


C. B. Goyne
Carrier Member


S. A. Hammons, Jr.
Organization Member

Houston, Texas
August 31, 1988