

NATIONAL MEDIATION BOARD
PUBLIC LAW BOARD NO. 3689

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
and
UNION PACIFIC RAILROAD COMPANY

AWARD NO. 10

Case No. 10

STATEMENT OF CLAIM

1. Claim of the System Committee of the Brotherhood that the Carrier's action in assessing California Division Employee Mr. J. B. Bondurant's personal record with thirty (30) demerits was without just and sufficient cause and in violation of the Agreement.

2. The thirty (30) demerits will now be expunged and Claimant's record will be cleared of all charges.

FINDINGS

As a procedural matter, the Organization argues that the Carrier is in violation of Rule 48(f) in that the Carrier did not provide a copy of the transcript of the investigative hearing "promptly" to appropriate Organization representatives. Rule 48(f) reads as follows:

A copy of the transcript of the hearing will be promptly furnished the employee charged, his representative(s) and the General Chairman.

The hearing was conducted on February 8, 1985. The Carrier states that it mailed transcript copies on February 26, March 1 and March 28, 1985 to the appropriate Organization representatives. While there may have been some mix-up in the mailing and/or receipt of the transcripts, such were in fact received in sufficient time for the Organization to initiate the claim procedure in reference to the disciplinary action taken against the Claimant. Based on this, the Board need not review further the meaning of "promptly" in this connection.

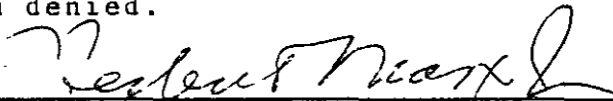
There is no dispute as to the facts in this matter. Following an investigative hearing, Claimant was assessed 30 demerits based on his "leaving work early on Wednesday, January 9, 1985, without having notified proper authority". While returning to his tie-up point with two fellow employees in a Carrier vehicle, the Claimant left the vehicle at 3:15 p.m. at a location other than the tie-up point. He was scheduled to be at work for the Carrier until 3:30 p.m. He stated during the investigative hearing that he did not have authority to fail to complete his tour of duty.

The record shows that the Claimant adjusted his time record so that he was not paid for the remaining 15 minutes. Whether he made the adjustment before or after learning of an impending hearing on the matter is uncertain. In any event, this does not offer any justification for his early departure.

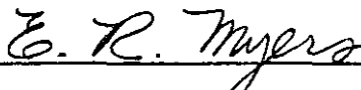
The degree of penalty is fully supported by the Claimant's disciplinary record, which includes a dismissal and subsequent return to service on a leniency basis less than three months previous to the incident here under review.

A W A R D

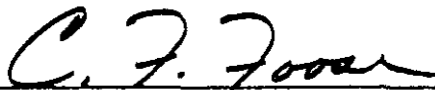
Claim denied.



HERBERT L. MARX, JR., Chairman and Neutral Member



E.R. MYERS, Carrier Member



C.F. FOOSE, Employee Member

New York, N. Y.

DATED:

December 17, 1985