

PUBLIC LAW BOARD NO. 4373

PARTIES	SOUTHERN PACIFIC TRANSPORTATION COMPANY )	
	(EASTERN LINES)	
TO	AND	AWARD NO. 18
DISPUTE	BROTHERHOOD OF MAINTENANCE OF WAY )	CASE NO. 15
	EMPLOYEES	

STATEMENT OF CLAIM:

1. Carrier violated the effective agreement when Houston Division B&B Foreman J. J. Weeks was unjustly dismissed from service.
2. Claimant Weeks shall now be paid for all time lost due to 20 working days suspension commencing August 10, 1987, and continuing through September 8, 1987, and with charge letter of August 7, 1987, removed from his personal record.

HISTORY OF DISPUTE:

Claimant was suspended from service for twenty working days for his failure to promptly report a personal injury to an employee under his supervision. Claimant requested and was granted a hearing under provisions of the Agreement. Subsequent to the hearing, Claimant was notified that he was found to be in violation of Rule E and that his suspension was upheld.

The Organization grieved the discipline. As the dispute remains unresolved, it is before this Board for final and binding determination.

FINDINGS:

The Board upon the whole record and all the evidence finds that the employees and the Carrier are employees and Carrier within the meaning of the Railway Labor Act, as amended, 45 U.S.C. §151 et seq. The Board also finds it has jurisdiction to decide the dispute in this case. The Board further finds that the parties to the dispute, including Claimant, were given due notice of the hearing in this case.

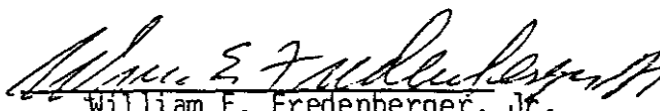
Claimant contends that he attempted, unsuccessfully, to contact his supervisor to report the personal injury. It is unrefuted that Claimant did place the accident report on his supervisor's desk prior to going home. The Board agrees with the Carrier's contention that Claimant should have contacted someone in authority when he determined that his supervisor was unavailable. While we believe the Carrier was within its prerogative to assess Claimant a suspension, we think the length was excessive. We believe, under the circumstances of this case, Claimant should have received no more than a five-day suspension.

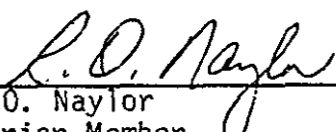
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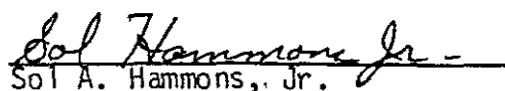
Claimant's suspension shall be reduced to five days and he shall be paid for all time out of service in excess of that amount.

Claim denied in all other respects.

The Carrier shall make this award effective forthwith.

  
William E. Fredenberger, Jr.  
Chairman and Neutral Member

  
R. O. Naylor  
Carrier Member

  
Sol A. Hammons, Jr.  
Employee Member

Dated: Feb. 26, 1990