

SR. VICE PRESIDENT
DEC 30 1997
TARROPELATIONS

PUBLIC LAW BOARD NO. 5396

Parties
to the
Dispute

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:
: BROTHERHOOD OF MAINTENANCE
: OF WAY EMPLOYES
:
: vs..
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: SOUTHERN PACIFIC TRANSPORTATION
: COMPANY
: (Western Lines)
:
:
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: PLB Case No. 38
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: NMB Case No. 38
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STATEMENT OF CLAIM

1. That the Carrier violated the provisions of the current Agreement when it dismissed Track Laborer Mr. D.C. Perry. Said action being excessive, unduly harsh and in abuse of discretion.
2. That the Carrier now reinstate Claimant to his former Carrier position with seniority and all other rights restored unimpaired, with pay for all loss suffered and his record cleared of all charges.

FINDINGS

An investigation was held in absentia on April 27, 1995, to investigate Claimant's responsibility, if any,

...in connection with your alleged disappearance on April 11, 1995, after receiving instructions to follow the weed sprayer to Crescent Lake to pick up the Curve Lube Maintainer and return to Tule Lake; your failure to report for duty the following day, April 12, 1995; and your failure to contact your supervisor or any Company official of your whereabouts or to explanation (sic) these unusual occurrences on April 11 and 12, 1995.

At the hearing, the Organization requested a postponement which was denied. The Hearing Officer concluded that Claimant was aware of the time, date, and location of the hearing, because he had signed for the charge letter. This Board finds nothing in the record, either at the hearing or subsequently on the property, that would explain why Claimant was unable to be present. Absent such evidence, we must conclude that he elected to be absent upon his own volition.

The Organization alleges in defense of Claimant that he did not willfully disregard his responsibilities. Rather, his behavior was that of an individual whose mental abilities were not fully intact. While that is certainly possible, there is simply no evidence in the record to indicate any impairment, either temporary or long standing.

Carrier pointed out that on April 11, 1995, Claimant was directed by the Roadmaster to drive a coworker's vehicle from Klamath Falls to Crescent Lake to pick up the coworker and bring

him back. Claimant never appeared. Chemult Track Supervisor Williams reported talking to Claimant that evening and quoted him as saying that he was lost, but that he could find his way back to Klamath Falls that night. The next day, when neither Claimant nor the vehicle appeared, the State Police were alerted. Efforts were made to reach Claimant by radio and Company personnel were directed to look for him. At 5 PM, the truck was located in Tule Lake and Claimant was found in a bar, playing pool. Claimant was vague as to what had occurred, saying that he did not know how to use the radio and that he never thought about telephoning.

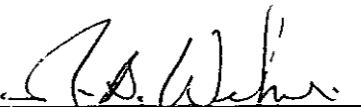
There is no doubt, as Carrier suggests, that Claimant's behavior was bizarre. No reasonable explanation has ever been provided. Employees may not simply walk away from their jobs without proper authorization. Claimant effectively abandoned his employment with Carrier. Under all of the circumstances of this case, it must be concluded that his removal was warranted.

AWARD

Claim denied.

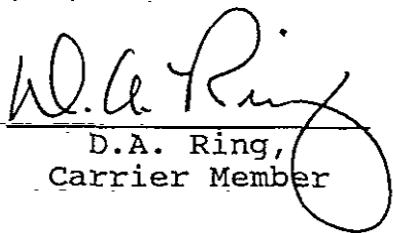


C.H. Gold,
Neutral Chairman



for C.F. Foose,
Employee Member

1-7-98
Date of Approval



D.A. Ring,
Carrier Member