

NATIONAL MEDIATION
BOARD

AWARD NO. 3
CASE NO. 3
(SU-1200)

DEC 30 9 48 AM '71

NATIONAL RAILROAD
ADJUSTMENT BOARD

PUBLIC LAW BOARD NO. 716

PARTIES) UNITED TRANSPORTATION UNION (S)
TO)
DISPUTE) SOUTHERN PACIFIC TRANSPORTATION COMPANY,
TEXAS AND LOUISIANA LINES

STATEMENT OF CLAIM: (SU-1200 1918-L159-71)

Claim one (1) day at pro rata rate in favor
of El Paso Switchman V. G. Mettler for attending
investigation on November 24, 1970 and claim for all time lost from
November 30, 1970 until reinstated with seniority unimpaired and vacation
and all other rights restored.

FINDINGS: This Public Law Board No. 716 finds that the parties herein
are Carrier and Employee within the meaning of the Railway
Labor Act, as amended, and that the Board has jurisdiction.

Any alleged laches in invoking disciplinary proceedings
against Claimant, and convening the investigation contemplated by
Rule 94, did not begin to accrue until a ruling was had on the charges
on which Claimant was arrested. Only then could it be ascertained,
with any degree of certainty, whether or not disciplinary action was
indicated.

The record shows that in the United States District Court,
for the Western District of Texas, on November 6, 1970, Claimant
pleaded guilty to having stolen property in his possession, and he
received a suspended sentence of one year imprisonment, and placed on
five years probation.

The holding of an investigation by Carrier on November 24,
1970, concerning the criminal charges on which Claimant had been con-
victed, did not constitute an unreasonable delay in taking disciplinary
action.

In the instant circumstances, Claimant's dismissal from
service, being consistent with the purport of Operating Rules 801 and
804, cannot be deemed unjustified.

P.L.B. No. 716

-2-

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AWARD: Claim denied.

Public Law Board No. 716

/s/ Harold M. Gilden
Harold M. Gilden, Chairman

John B. Cropper Dissent
John B. Cropper, Employee Member

R. Cunningham
R. Cunningham, Carrier Member

Houston, Texas
December 14, 1971