

**DECISION NO. 28
CASE NO. 63—ORC**

**SPECIAL ADJUSTMENT BOARD NO. 18
(Train and Yard Service Panel)**

**Thomas J. Mabry
H. F. Brown
K. K. Schomp**

PARTIES TO DISPUTE:

**ORDER OF RAILWAY CONDUCTORS
SOUTHERN PACIFIC COMPANY (PACIFIC LINES)**

STATEMENT OF CLAIM:

Request for the reinstatement of Conductor R. W. Taylor, San Joaquin Division, who was dismissed for alleged dishonesty in connection with his movement from Saugus to Los Angeles by taxicab, January 29, 1952.

STATEMENT OF FACTS:

Conductor R. W. Taylor was dismissed February 28, 1952 on the basis that he violated that portion of Rule 801 of the Rules and Regulations of the Transportation Department pertaining to dishonesty on January 29, 1952, which charge the petitioner contends was not supported by the evidence adduced at the investigation.

DECISION:

To sustain the carrier in its position here we would have to believe that claimant, and two other employes who were witnesses but not involved in this discipline, testified falsely and that the one opposing witness, the taxi driver, notwithstanding the transcript of his testimony presents some pretty glaring inconsistencies (with which we will not encumber this decision) testified truthfully.

It may be that claimant and his crew took out more time to eat than would reasonably be required, yet in the absence of a sufficient showing to support carrier's contention that claimant was endeavoring to delay his arrival in deadhead for the purpose of avoiding going on his regular assignment, it cannot be said that any dishonesty was involved.

It is doubtful whether claimant could have reached the terminal in time for call for his 9:10 P.M. assignment in any event, and even without taking time out for meals, if, under the circumstances, it required more than an hour and fifteen minutes time to make the trip from Saugus to Los Angeles and check in, because of the ten hours of rest coming up. The stigma which attaches to a finding of dishonesty is as lasting as it is odious; and it ought not be lightly asserted or found. We are compelled to say that the evidence of record does not offer substantial support for carrier's finding of guilt of dishonesty.

The claim will be sustained.

Claimant will be reinstated, restored to his full seniority rights and paid for time lost.

(Sgd.) THOMAS J. MABRY,
Chairman

(Sgd.) H. F. BROWN,
Employee Member

(Sgd.) K. K. SCHOMP,
Carrier Member

San Francisco, Calif.
December 2, 1952.