

Award No. 238

Docket No. 238

Mopac File 247-6910

Parties Brotherhood of Maintenance of Way Employees
to and

Dispute: Missouri Pacific Railroad Company

Statement
of Claim:

1. Carrier violated the effective Agreement when Trackman Luis Gonzales was unjustly dismissed on December 11, 1984.

2. Claimant Gonzales shall now be paid for eight (8) hours each work day, including any holidays falling therein and any overtime which would have accrued to him, beginning November 21, 1984, and continuing until he is reinstated to service with seniority, pass and vacation rights unimpaired.

Findings: The Board, after hearing upon the whole record and all evidence, finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, that this Board is duly constituted by Agreement dated January 5, 1959, that it has jurisdiction of the parties and the subject matter, and that the parties were given due notice of the hearing held.

Claimant Trackman was dismissed for being absent without proper authority and for his failure to comply with the instructions of his foreman.

He was assigned as a Trackman on Gang 5386 working near Austin, Texas. On October 23, 24, and 25, 1984 Claimant failed to report for work and he failed to notify anyone of his absence.

Claimant arrived at the worksite late on the morning of October 26. His Foreman instructed him (Claimant) to go home and to report for work on Monday, October 29, 1984. At that time the Foreman also instructed Claimant that if he was going to be absent for any reason in the future that he must contact either he, the Foreman, or the Road Master, in order to receive proper authority to do so.

Claimant failed to report for work on Monday, October 29th, as instructed. He also failed to secure proper authority to be absent therefrom. Claimant was absent without proper authority continuously until November 21, 1984, at which time he, for reasons unknown, arbitrarily reported to Gang 5366, headquartered at San Antonio, Texas.

Claimant, on November 21, 1984 was notified to attend a formal investigation in connection with absenting himself without proper authority and his failure to comply with instructions from his Foreman. Claimant failed to appear thereat although his representative was there. Despite a delay in the investigation, in order to permit Claimant additional time to appear, the investigation was then held in absentia.

Carrier concluded therefrom that Claimant was guilty as charged. He was dismissed from service as discipline therefor. Claimant was accorded the due process to which entitled under Rule 12.

There was sufficient evidence to support the Carrier's conclusion of Claimant's guilt of the charges placed against him.

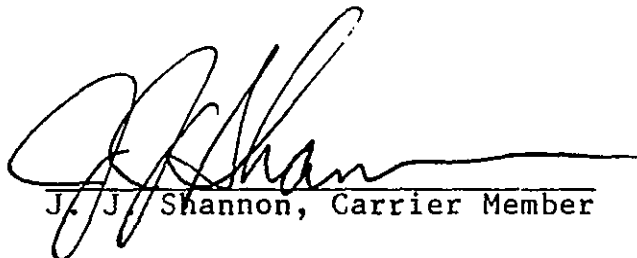
Claimant had the duty to protect his assignment. He had a further duty when unable to do so to notify the designated representative for that purpose. Claimant failed on both accounts despite having been so told by his Foreman.

In the circumstances, the discipline assessed is found to be reasonable. This claim will be denied.

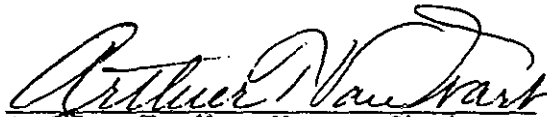
Award: Claim denied.



M. A. Christie, Employee Member



J. J. Shannon, Carrier Member



Arthur T. Van Wart, Chairman
and Neutral Member

Issued August 23, 1986.