

Award No. 244

Docket No. 244  
Mopac File 247-6988

Parties Brotherhood of Maintenance of Way Employees  
to and

Dispute: Missouri Pacific Railroad Company

Statement  
of Claim:

1. Carrier violated the effective Agreement when Section Foreman R. J. Horn was unjustly dismissed on April 24, 1985.

2. Claimant Horn 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 had he not been dismissed from service, beginning March 21, 1985, and continuing until 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, a Section Foreman of approximately 32 years of service, was Foreman of Section 5426 headquartered at Kenefick, Texas. Sometime between 6:50 a.m. and 7:15 a.m. on March 5, 1985 Claimant, apparently, got into a heated discussion with a Trackman under his supervision, named Rory D. Wilkerson. The discussion centered on Wilkerson's

absence from duty during the previous week. Trackman Wilkerson reported the incident resulting in a formal investigation being held on April 17, 1985. As a result thereof the Claimant was dismissed from service as discipline therefor.


Claimant was accorded the due process to which entitled under his Discipline Rule.

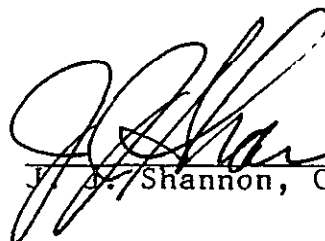
There was sufficient evidence adduced to support the conclusions reached by Carrier as to Claimant's culpability. In so doing the Board is not agreeing that had it been the original finder of fact that it too would have reached the same conclusion.

The Board finds that there are mitigating circumstances in this record. Claimant will be reinstated with all rights unimpaired and will be paid back pay for four months and the remainder of time out of service will be changed to a suspension.

Award: Claim disposed of as per findings.

Order: Carrier is directed to make this Award effective within thirty (30) days of the date of issuance shown below.

  
M. A. Christie, Employee Member

  
J. S. Shannon, Carrier Member

  
Arthur T. Van Wart, Chairman  
and Neutral Member

Issued August 23, 1986.

