

PARTIES St. Louis Southwestern Railway Company
TO and
DISPUTE Brotherhood of Maintenance of Way Employees

STATEMENT "Claim of the System Committee that:
OF CLAIM

1. Carrier violated the effective Agreement on March 9, 1977 when Extra Gang Laborer R.L. Thedford was dismissed without just and sufficient cause, based on unproven charges.
2. Claimant R.L. Thedford be reinstated to his former position with pay for all time lost and vacation, seniority and all other rights restored. Also, that the discharge be stricken from his record."

FINDINGS

Upon the whole record, after hearing, the Board finds that parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended, and that this Board is duly constituted under Public Law 89-456 and has jurisdiction of the parties and the subject matter.

Claimant was charged with being absent without permission and hence, failing to protect his position on March 4, 7 and 8, 1977. Following his dismissal for allegedly being guilty of the charges he requested and received a hearing on the matter. A review of the transcript indicates that Claimant received a fair and impartial hearing.

The record indicates clearly that Claimant absented himself without proper permission on March 4 and March 7. There is no substantiation of his absence of March 8, 1977. The record indicates further that one month earlier, on February 3 and 4 of 1977, he had also absented himself without proper permission and was dismissed from service. In that circumstance, however, he was restored to service on a leniency basis after intervention by his Organization's representative.

The record is clear and unequivocal that on two of the three days in question Claimant was absent without proper authority. Therefore, Carrier's conclusion of his guilt is amply sustained by the record. With respect to the penalty of dismissal, it is not in

this Board's judgment harsh and improper under the circumstances in view of the prior incident involving exactly the same offense one month earlier. Hence, the claim must be denied.

AWARD

Award denied.



I.M. Lieberman, Neutral-Chairman



Carrier Member



Employee Member

October 19, 1979
Houston, Texas