

SPECIAL BOARD OF ADJUSTMENT #280

Award No. 151
Case No. 235

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

STATEMENT
OF CLAIM

"1. Carrier violated the effective Agreement when a Mr. Jessie J. Ramirez was unjustly dismissed on July 2, 1979.

2. Claimant Jessie J. Ramirez shall be reinstated to his former position with pay for all time lost and with all seniority, vacation and other rights unimpaired."

FINDINGS

Upon the whole record, after hearing, the Board finds that parties herein are Carrier and Employee 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 had been working as an Extra Gang Laborer at Waco, Texas. He had been working for Carrier for some five and a half years. He was discharged by Carrier on July 2, 1979 for an incident in which he allegedly engaged in an altercation with his Foreman in violation of the Company rules.

Petitioner's position essentially was that the Claimant was not accorded a precise charge and furthermore, Carrier did not prove its case against him. The Board does not agree.

An examination of the transcript indicates that Claimant was well aware of the subject matter of the disciplinary action of Carrier. The altercation and the subsequent action taken by Carrier were so obvious that Claimant was clearly prepared to defend himself at the investigation. Additionally, the only question at the investigation which might be raised deals with Claimant's version of the story as against that of Carrier

witnesses. It is well established that credibility questions are resolved by the Hearing Officer and not by Boards such as this. In this case, the Hearing Officer did not find that Claimant's version of the incident was credible. Furthermore, from the testimony of Claimant himself, it is clear that he did engage in a physical attack upon the Foreman. Thus, Carrier's conclusion that he was guilty is supported amply by the evidence. For the reasons indicated, the claim must be denied.

AWARD

Claim denied.



I.M. Lieberman, Neutral-Chairman


Carrier Member
Employee Member

May 20, 1980
Houston, Texas