

SPECIAL ADJUSTMENT BOARD NO. 947

Claimant - R. C. Anagal
Award No. 113
Case No. 113

PARTIES TO DISPUTE:

Brotherhood of Maintenance of Way Employees

and

Southern Pacific Transportation Company (Western Lines)

STATEMENT OF CLAIM:

That the Carrier's decision to suspend Claimant for a period of sixty (60) days was excessive, unduly harsh and in abuse of discretion and in violation of the terms and provisions of the current Collective Bargaining Agreement.

That because of the Carrier's failure to prove and support the charges by introduction of substantial bona fide evidence, that Carrier now be required to reinstate and compensate Claimant for any and all loss of earnings suffered, and that the charges be removed from his record.

FINDINGS

Upon reviewing the record, as submitted, I find that the Parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended, and that this Special Board of Adjustment is duly constituted and has jurisdiction of the Parties and the subject matter; with this arbitrator being sole signatory.

By certified letter dated October 12, 1990, the Claimant was notified to be present at a formal Investigation to be held

on Tuesday, October 23, 1990 at the Office of the Roadmaster, Bakersfield, CA. The hearing was to determine his responsibility, if any, for allegedly being absent without authority on October 2, and 8, 1990, while assigned as laborer on Extra Gang 77. He was charged with violating Rules 604 and 607, of the Rules and Instructions for the Maintenance of Way and Structures and Engineering employees. The Rules allegedly violated read as follows:

Rule 604: DUTY-REPORTING OR ABSENCE:

Employees must report for duty at the designated time and place. They must devote themselves exclusively to the Company's service while on duty. They must not absent themselves from duty, exchange duties, or substitute others in their place without proper authority.

Continued failure by employees to protect their employment shall be sufficient cause for dismissal.

Rule 607: CONDUCT, Third paragraph:

Indifference to duty, or to the performance of duty, will not be condoned.

The Claimant did not claim the original charge letter, nor did he attend the hearing on October 23, 1990. The Union, who was in attendance, requested a postponement which was granted. The Investigation was rescheduled for November 9, 1990. Once again, the Claimant was not in attendance, but phoned to request another postponement, which was denied.

The Carrier determined the evidence adduced at the hearing was sufficient to support the charges against the Claimant. He was notified by letter dated November 28, 1990, that he was

being suspended for sixty (60) days.

This Board has held repeatedly that if an employee is to be of any value to the Carrier he must regularly come to work when assigned. It is simply not possible for an employer to conduct his business in an efficient manner if he cannot rely on the attendance of his employees. In addition, it is not fair to other members of a crew to have some employees attend work at their leisure. An employee is hired out of need and is expected to show up for work consistently. The failure to do so diminishes his/her value.

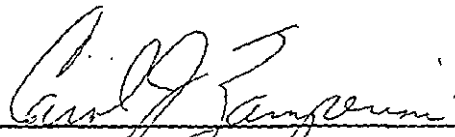
In this case, the Claimant is fortunate the Carrier is willing to give him another chance. He should be aware that an employer is under no obligation to retain an employee who does not, for whatever reason, show up for work. If the Employee has a problem, he should discuss the problem with the Carrier and attempt to come to a mutually acceptable solution.

This Board believes the penalty issued was reasonable.

AWARD

The claim is denied.

Submitted:
September 10, 1991
Denver, Colorado



Carol J. Zamperini
Impartial Arbitrator