

SPECIAL BOARD OF ADJUSTMENT NO. 947

Case No. 132  
Award No. 132

Claimant: D. N. Wood

PARTIES  
TO  
DISPUTE

Brotherhood of Maintenance of Way Employees  
and  
Southern Pacific Transportation Company

STATEMENT  
OF CLAIM

1. That the Carrier's decision to suspend Claimant from its service for a period of five (5) working days was excessive, unduly harsh and in abuse of discretion and in violation of the terms and provisions of the Collective Bargaining Agreement.
2. 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 letter dated September 16, 1991, the Claimant was notified he was to attend a formal investigation to determine his responsibility, if any, in connection with his alleged violation of the following rules:

Rule A: Safety is of the first importance in the discharge of duty.

Obedience to the rules is essential to safety  
and to remaining in service

The service demands the faithful, intelligent and courteous discharge of duty.

Rule D: Employees must cooperate and assist in carrying out the rules and instruction and must promptly report to the proper officer any violation of the rules or instructions, any condition or practice which may imperil the safety of trains, passengers or employees and any misconduct or negligence affecting the interest of the Company.

Rule L: Employees must conduct themselves in such a manner that their Company will not be subject to criticism or loss of good will

Rule 607: CONDUCT: Employees must not be:  
 (2) Negligent;  
 (3) Insubordinate;  
 (6) Quarrelsome

Any act of hostility, misconduct or willful disregard or negligence affecting the interests of the Company is sufficient cause for dismissal.

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

Courteous deportment is required of all employees in their dealings with the public, their subordinates and each other. Boisterous, profane or vulgar language is forbidden

#### Rule 1.2.3.1

Foreman report to and receive instructions from the Roadmaster (or Assistant Roadmaster) and/or Track Supervisor. They are in charge of and are responsible for the safe condition of the tracks roadway and right of way where they are assigned to work, and for the safe, proper and economical use of labor and material in the maintenance thereof.

The charges stemmed from an incident which occurred on Friday, August 30, 1991, near Springfield, Oregon. The Claimant and the Track Supervisor surveyed a section of track on which

there were three defective rails. These rails were going to be replaced by the Claimant (Foreman) and his gang. After examining the work area, the Supervisor told the Claimant it would be necessary to lock the switches at both ends of the section. After the inspection, the Supervisor drove over to the other end of the work area (East end) and applied a foot lock to the switch at that location. He then returned to the West end and advised the Claimant that he had locked out the East end and was about to do the same on the West end. The Claimant allegedly took offense at the actions of the Supervisor. He became verbally abusive and accused the Track Supervisor of interfering with his work by doing work that was rightfully his. He ordered the Supervisor to leave the work site. Even though the Supervisor attempted to calm the Claimant, his efforts were to no avail. He did advise the Claimant the West end switch still needed to be locked. The Claimant told the Track Supervisor that if he locked the switches he should unlock them that he had no intention of doing it. The Supervisor left the area. He did, however, direct the Claimant three times to call him when the repairs were completed. Regardless, the Claimant indicated he would not, and subsequently did not, call the Supervisor after completing the work. Instead, at the end of the shift, the Supervisor had to walk the section of track which was repaired to make sure the work had been completed before the switches could be unlocked. This resulted in overtime for the Supervisor and delayed the switching of loads on the repaired track.

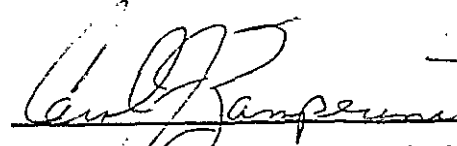
Even though the Claimant insists he did not realize the Track Supervisor had orders to lock off the switches, his behavior cannot be excused. He has no prerogative to chastise a Supervisor for giving him directions. Nor does he have the right to determine whether or not he will obey those instructions. There is a chain of command in any Company. That order is there to assure work gets done in a timely and efficient manner. When a Supervisor gives a reasonable directive, those under him are expected to obey. The Claimant erred in not complying with the Track Supervisor's orders.

This Board, upon reviewing the record, finds no reason to overturn the actions of the Carrier in this case.

#### AWARD

The Claim is denied.

947-132

  
Carol J. Zamperini  
Neutral

Submitted:

May 26, 1992  
Denver, Colorado