

SPECIAL ADJUSTMENT BOARD NO. 947

Award No. 4

Case No. 4

PARTIES
TO
DISPUTE

Brotherhood of Maintenance of Way Employees
and
Southern Pacific Transportation Company (Western
Lines)

STATEMENT
OF CLAIM

1. That the Carrier violated the provisions of the Agreement when, on January 24, 1984, Mr. Jerry C. Eismon, foreman, was told to advise Mr. William Granillo by telephone that he had been suspended from service, thereafter, a formal hearing was held and as a result of said hearing Mr. Granillo was suspended from service without pay for a period of thirty (30) calendar days, for an alleged violation of Rule 801 and Rule M801 of the Rules and Regulations of the Maintenance of Way and Structures, however, any reaction by Mr. Granillo on January 21, 1983, was provoked by management, therefore, the Company's actions were without cause and excessive.
2. That Mr. Granillo be compensated for all time lost as a result of this suspension and that his record be expunged.

FINDINGS

Upon reviewing the record, as submitted, I find that the Parties herein are Carrier and Employee 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 the arbitrator being sole signatory.

The Grievant, William Granillo, has been employed by the

Southern Pacific Transportation Company as a Track Laborer and Machine Operator for 18.5 years. He currently works at Benson, Arizona. On January 21, 1983, Mr. Granillo was working with the Gang supervised by Foreman, Jerry Eison, when Mr. J. G. Scott, District Manager on the Benson District, approached Mr. Eison and requested that Mr. Granillo and Mr. O. L. Pasos accompany him to repair some tracks in other locations. The two men were directed to accompany Mr. Scott. Mr. Scott was driving a hyrail pickup. Mr. Pasos rode with him in the front while Mr. Granillo chose to ride in the back of the truck. The trio stopped at two locations where repairs were made on the track. At a third location they were in the midst of repairs when a confrontation began between Mr. Scott and the Grievant, Mr. Granillo. After several words were exchanged between the two, Mr. Granillo threw down a tie plate and a pair of gloves and walked off the job about one hour and five (5) minutes before his scheduled quitting time. On Monday, January 24, 1983, he was notified by phone that he was suspended from service. Following a formal hearing, he received a letter dated February 14, 1983 which read in part:

"Evidence adduced at formal hearing held at Tucson, Arizona, February 3, 1983, established your responsibility of failing to comply with a direct order of your supervisor and of absenting yourself from duty without proper authority about 2:25 p.m., January 21, 1983, near Vail, Arizona. Your actions in this instance were in violation of those portions of Rules 801 and M810 of the Rules and Regulations for the Maintenance of Way and Structures,"

Three of the witnesses at the hearing testified to the

controversy which existed between the District Manager, Mr. J. G. Scott and his crew. Apparently someone who worked within his jurisdiction had reported to the Tucson office of dissatisfaction with Mr. Scott. Unable to determine the person or persons involved, he decided to demand that his workers adhere much more closely to the rules. This attitude apparently created uneasiness within the ranks. This tension obviously carried over into the conflict which occurred between Scott and Granillo. The evidence showed that Mr. Granillo was doing his job on January 21, 1983 without reluctance. Once the two men began to exchange words, he decided to absent himself.

There is little doubt that left alone Mr. Granillo would have finished his work, albeit, angrily. When he walked off the job he believed he was doing the best thing in order to contain his temper and preserve his position. The District Manager, Mr. Scott, should have shown better judgement in dealing with Mr. Granillo, that is part of the responsibility of being a supervisor. He did not, however, and must share some of the blame for what happened. This fact does not excuse Mr. Granillo for leaving his job early. There is contractual recourse available for employees who feel they are being unduly harrassed by their supervisors. The self-help reaction displayed by Mr. Granillo cannot be completely excused without ignoring the contractual remedies available.

Under the circumstances, both the Grievant and the Supervisor

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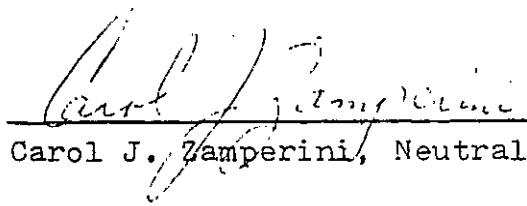
are responsible for the incident of January 21, 1983. The punishment meted out by the Company is therefore excessive, but not totally unwarranted.

AWARD

The Claim is granted in part; the suspension is to be reduced to a ten (10) working day suspension and Mr. Granillo is to be compensated for any time lost in excess of that amount.

ORDER

The Company is to comply with this order within thirty (30) days from the date of its issue.



Carol J. Zamperini, Neutral

Denver, Colorado
June 21, 1984