

SPECIAL ADJUSTMENT BOARD NO. 947

Claimant - C. Servillican
Award No. 62
Case No. 62

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

STATEMENT OF CLAIM

That the Carrier's decision to suspend Claimant from its service for a period of forty-five (45) 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 sustain and support the charges by introduction of substantial bona fide evidence that the Carrier now be required to compensate Claimant for all loss of earnings he 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 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 this arbitrator being sole signatory.

On November 20, 1987, the Claimant was absent from work without authority. He did not call in to report off. His

actions were in violation of Rule 604 of the Rules and Regulations of the Maintenance of Way and Structures of the Southern Pacific Transportation Company, that portion reading:

Rule 604:

DUTY REPORTING OR ABSENCE: Employees must report for duty at the designated time and place. . . .they must not absent themselves from duty. . . .without proper authority.

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

The Claimant was charged with the above violation and was advised to be present at an investigation held on December 4, 1987. Following the hearing, the Claimant was suspended for a period of forty-five (45) days effective November 23, 1987 through January 6, 1988. The Claimant appealed the Carrier's decision.

The Claimant had nearly nine years of service with the Carrier at the time of the incident. During that time he has been warned about Rule 810 violations and more recently about Rule 604 violations. Since the end of March, 1987 until November 30, 1987, he has been AWOL at least sixteen (16) times. On October 19, 1987, he was suspended for five (5) days because he had violated Rule 604.

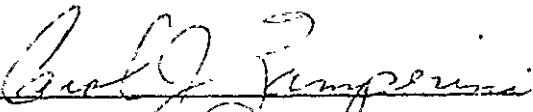
An employee is responsible for getting to work when he is assigned. He is also obligated to communicate with his

employer, in a timely manner, when he is unable to make his assignment. Failure to do so not only places the employer at a disadvantage, but has an adverse effect on his co-workers.

Progressive discipline usually requires that discipline be issued in the smallest increments necessary to achieve the modified behavior desired in an employee who is not living up to his responsibilities. In this case, the Carrier went from issuing a five (5) day suspension to a forty-five (45) day suspension. While in some instances this Board would consider that escalation to be too great, we do not think so here. First, the Claimant has not been meeting his work obligation to the Carrier. Not only has he been absent frequently, but he has often failed to notify the Carrier before the beginning of his shift that he would not be at work. Secondly, he was just disciplined for the same violation less than one month before he was AWOL on November 20, 1987. It is clear the Claimant did not respond positively to what was a fair and reasonable penalty. It is apparent to this Board a more severe penalty is appropriate.

AWARD

The claim is denied.


Carol J. Zamperini, Neutral

Submitted:

February 11, 1988
Denver, Colorado