

SPECIAL ADJUSTMENT BOARD NO. 947

Claimant - D. N. Wood
Award No. 82
Case No. 82

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 assess Claimant thirty (30) demerits 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 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.

The Claimant was Foreman for Extra Gang 10 on August 11, 1988, when he and a crew member were putting in railroad ties in the vicinity of Goshen, near MP 634. They had been given track time until 3:30 p.m. which corresponded to their quitting time.

As the deadline approached, the Claimant attempted to reach the dispatcher to either extend the track time or release it, but was unable to get through. The two employes returned to the depot at 3:30 p.m. where again the Foreman tried unsuccessfully to reach the dispatcher to give back the track time. According to the testimony of the Foreman he attempted at least six times to reach the dispatcher. For whatever reason, the track time was not returned to the dispatcher before the Claimant left work for the day.

By letter dated August 26, 1988, the Claimant was told to attend a formal hearing to determine his responsibility in violating Rule 268 of the Rules and Regulations of the Maintenance of Way and Structures. The rule reads in part:

Rule 268: Unless granted an extension of time, train and/or on-track equipment must be clear and report block "released" before expiration of the time limit."

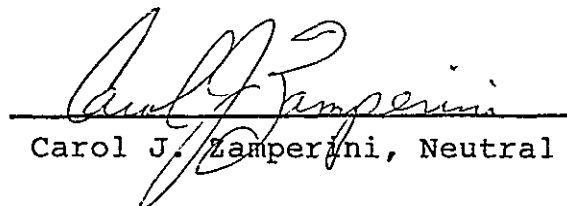
As a result of evidence introduced at the hearing, it was determined the Claimant tried several times to release the time, but was unsuccessful. After one such try, on the day in question, the Claimant prepared to go home and simply forgot to try to reach the dispatcher. He did not release his time until after 6:30 p.m. when he was called at home and advised of the situation. For these reasons, the Carrier issued the Claimant thirty (30) demerits.

The Claimant raises as his defense, the difficulties in

trying to reach a dispatcher either via the radio or the telephone. While this may be true, it is also true that the Carrier recognizes this problem and has provided overtime to employees who are forced to stay over in order to get through to the dispatcher. It would have been understandable if the Claimant had merely been late in getting through to the dispatcher, but it was not acceptable for him to leave work without releasing his time. For that reason, the penalty issued was not unreasonable.

AWARD

The Claim is denied.


Carol J. Zamperini, Neutral

Submitted:

February 15, 1989
Denver, Colorado