

Org. File 835-57-8658
Co. File TRN J-5-75

Decision No. 5746
Case 1142
Supplemental List No. 91

SPECIAL ADJUSTMENT BOARD NO. 18
(Train Service Panel)

PARTIES TO DISPUTE: United Transportation Union-
Southern Pacific Transportation Company (Western Lines)

STATEMENT OF CLAIM: Request of Brakeman Gary W. Touchstone, Valley District, San Joaquin Division, for reinstatement to service with seniority unimpaired and for replacement of wage loss resulting from his suspension from service on November 21, 1984 and from his dismissal from service on December 28, 1984 because of his alleged violation of Rule 801 of the Rules and Regulations of the Transportation Department, which occurred on November 21, 1984.

The Superintendent, San Joaquin Division, reinstated Claimant on or about January 13, 1986 without prejudice to his claim for wage loss; therefore only that part of the claim comes before this Board.

STATEMENT OF FACTS: On November 26, 1984 the Carrier directed the following notice to the Claimant:

"You are hereby notified to be present at the Office of the Trainmaster, Fresno, California, at 9:00 a.m. Monday, November 26, 1984 for formal investigation to develop the facts and place responsibility, if any, in connection with your allegedly refusing to give a urine sample for drug screening at approximately 6:15 p.m. November 21, 1984 while you were acting as Brakeman on the Extra Rockfield Local, on duty 1:30 p.m. November 21, 1984, Fresno, California.

"Your actions in this instance may constitute a violation of General Rule 801, that portion reading:

"'Employees will not be retained in the service who are . . . insubordinate . . .'

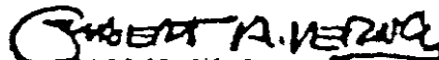
"of the Rules and Regulations of the Transportation Department, Southern Pacific Transportation Company. You are entitled to representation and witnesses in accordance with your agreement provisions. Any requests for postponement must be submitted in writing, including the reasons therefor, to the undersigned."

Subsequently, the Claimant was dismissed. He was offered and accepted conditional reinstatement on January 13, 1986 without prejudice to his claim for time lost.

FINDINGS: The Board finds, after hearing upon the whole record and all evidence that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, that this Board is duly constituted by Agreement and it has jurisdiction of the parties and the subject matter, and that the parties were given due notice of the hearing held.

DECISION: A review of the record convinces us there was no justification for the Claimant refusing to sign the consent form necessary for the Carrier to perform toxicological testing.

Accordingly, there was substantial evidence to support the discharge and there is no basis to disturb the quantum of discipline.



Gilbert H. Vernon
Chairman and Neutral Member



D. E. Torrey, Carrier Member



Glynn Gallagher, Employee Member

Dated this 11 day of May 1987
San Francisco, California.