

SPECIAL ADJUSTMENT BOARD NO. 947

Claimant - Douglas Allen Pearce
Award No. 108
Case No. 108

PARTIES
TO
DISPUTE

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

STATEMENT
OF CLAIM

That the Carrier's decision to suspend Claimant for a period of thirty (30) 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 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 Employes 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 January 3, 1990, the Claimant received a charge letter advising him to be present at a formal hearing to be held on January 12, 1990 at Dunsmuir, California, to determine whether

he had violated Rule 604 on September 26, October 10, November 17, 21, 28, 29, December 5, 7, and 8, 1989, by failing to protect his employment. The Rule allegedly violated reads as follows:

Rule 604: DUTY - REPORTING OR ABSENCE:

Employees must report for duty at the designated time and place. They must devote themselves exclusively to the Company's service while on duty. They must not absent themselves from duty, exchange duties, or substitute others in their place without proper authority.

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

The Claimant failed to report for duty on January 12, 1990, therefore, the hearing was continued until January 19, 1990. On January 23, 1990, the Claimant received a letter advising that the Carrier believed the evidence presented at hearing was sufficient to prove the charges. He was suspended for thirty (30) days.

The Claimant's record indicates he has been counseled numerous times concerning Absence Without Authority. Even if the Employee is having personal problems, he has an obligation to report to his assigned duties, or, at the very least, to call in on days he is unable to report. This Board believes there is sufficient evidence to show that the Claimant failed to do either of these things with any consistency.

Often an employee's personal problems will serve to mitigate the penalty issued in a disciplinary action. But, there must be some effort on the part of the employee to communicate these

problems in a timely manner and to discuss his situation with a representative of the Carrier. He cannot ignore his work responsibilities despite his problems away from work. The two of necessity must be separated. Regardless, in this case, the Board believes the Carrier took the Claimant's personal problems into account when they issued him the thirty (30) day suspension rather than more severe discipline. Furthermore, this Board has taken into consideration the many times the Claimant has been counseled about reporting his absences before his shift starts. Also taken into account was the Claimant's five (5) day suspension for violating Rule 806. These things coupled with the Claimant's relatively short tenure, renders the discipline issued justifiable.

AWARD

The claim is denied.



Carol J. Zamperini
Neutral

Submitted:
March 30, 1990
Denver, Colorado