

SPECIAL ADJUSTMENT BOARD NO. 947

Claimant - T. L. Billy
Award No. 114
Case No. 114

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 suspend Claimant for a period of sixty (60) 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 reinstate and 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 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.

The Claimant was sent a certified letter on October 8, 1990, which indicated he had abandoned his employment having

been absent from work September 28, 1990 until the date of the letter. The letter further advised Claimant of his right to request an Investigation within thirty (30) days. Although the certified receipt indicated the Employee actually retrieved the letter on October 23, 1990, the Union requested a hearing on his behalf on October 12, 1990. The hearing was scheduled for October 23, 1990, but was postponed and actually held on November 9, 1990.

The charge letter indicated the Claimant was being charged with violating Rules 604 and 607 of the Rules and Instructions for the Maintenance of Way and Structures and Engineering employes, those portions which read:

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.

Rule 607: CONDUCT, 3rd paragraph:

Indifference to duty, or to the performance of duty, will not be condoned.

After reviewing the evidence adduced at the hearing the Carrier suspended the Claimant for sixty (60) days.

The Claimant worked as a Laborer on Extra Gang 80. The Claimant's employment record reveals that he was first employed in 1989. On May 15, 1990, he was dismissed, but reinstated on August 14, 1990. Then, as in the present case, the Carrier

found the Claimant guilty of violating Rules 604 and 607. In the first instance it was determined he had abandoned his employment and had been absent without proper authority. In the instant case, the Carrier determined he had been absent without proper authority on the dates in question.

An employee has to attend work regularly if he is to be of value to his employer. Otherwise productivity is disrupted and the morale of other employees is affected.

The evidence produced at the Investigation was sufficient to show the Claimant did not take the necessary steps to obtain permission to be off on the dates in question. This Board believes he violated Rules 604 and 607 by failing to contact the appropriate Supervisors between September 30, 1990 and October 10, 1990. The Claimant's testimony to the contrary is simply not credible. He contradicted himself several times and denied he had access to phone numbers which, according to unrefuted testimony, he had used on other occasions.

When we consider these facts, along with, the Employee's past employment record, we believe the panalty issued was appropriate.

AWARD

The claim is denied.

A handwritten signature in cursive script, reading "Carol J. Zamperini", written over a horizontal line.

Carol J. Zamperini
Impartial Arbitrator

Submitted:

September 9, 1991
Denver, Colorado