

SPECIAL ADJUSTMENT BOARD NO. 947

Claimant - G. S. Romero
Award No. 117
Case No. 117

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 ten (10) 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 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 received a charge letter dated December 10, 1990, in which he was advised to be present at a formal

Investigation to be held on Thursday, December 13, 1990 to determine whether or not he was guilty of violating Rule 607 of the Rules and Regulations for the Government of Maintenance of Way and Structures and Engineering Department employees, Southern Pacific Transportation Company. The portion of Rule 607 cited, reads as follows:

Rule 607: CONDUCT: Employees must not be:

4. Dishonest;

Any act of . . .misconduct. . .affecting the interests of the Company is sufficient cause for dismissal and must be reported.

After reviewing the evidence adduced at the hearing the Carrier suspended the Claimant for ten (10) days.

On the two days in question, the Claimant was assigned to work from 7:00 a.m. until 3:30 p.m.. On both days, he left work without permission. According to his testimony he did so because he had to complete some personal business before reporting to jail where he was under a court ordered evening lock up. He further testified he merely forgot to delete the time he took off from his payroll record, instead he submitted a request for eight hours pay on each day.

There is no question requesting pay for time not worked is a serious violation. Whether the Claimant intended it or not, his actions constituted a theft. There is no employer who could stay in business if the employees they deemed necessary for a certain number of hours decided to work only part of the time, but applied for a full day's pay. Not only does that constitute

a theft of money, but of time, and time itself is money when it comes to productivity or the lack thereof.

The Board appreciates the dilemma in which the Claimant found himself. However, he should have approached his Supervisor and explained the situation. Even though the Claimant has worked for the Carrier for twenty years and apparently has a very good record, he is guilty of a very serious offense. One that could easily have resulted in dismissal. Therefore, the Board does not believe that the penalty can be mitigated. The Carrier has been lenient under the circumstances.

AWARD

The claim is denied.



Carol J. Zamperini
Impartial Arbitrator

Submitted:

September 10, 1991