

SPECIAL ADJUSTMENT BOARD NO. 947

Claimant - Bobby Dean Robinson
Award No. 66
Case No. 66

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 and place on Claimant's personal record sixty (60) 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 remove the sixty (60) demerits from Claimant's personal record, 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.

A formal hearing which was originally scheduled for December 16, 1987, was held on December 29, 1987. The Carrier charged the Claimant with a violation of Rule 604 of the General

Rules and Regulations for the Government of Maintenance of Way and Engineering Department Employees of the Southern Pacific Transportation Company, for his alleged failure to protect his assignment for several days during the months of September, October, and November. The rule cited reads:

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 worked as a Laborer-Operator for the Carrier. On the days in question he either failed to call in to report he was not coming to work or would call in long after his shift was scheduled to begin. After this had happened several times, his supervisor began issuing the Claimant warnings. Finally, the Carrier took disciplinary action which resulted in an investigation and the issuance of sixty (60) demerits on his personal record.

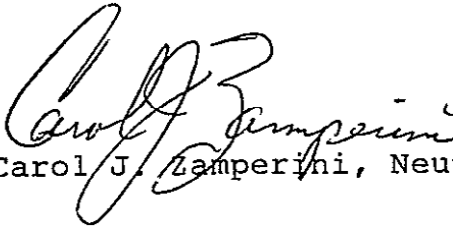
This Board has reviewed the transcript of the investigation and the Employee's personal record. We believe the Claimant's immediate supervisor went to great length to protect him. While we are sympathetic to the personal problems the Claimant was suffering, there is no way the problems can be used to excuse his failure to notify his supervisor in a timely manner that he

would not be reporting to work. His actions, particularly in view of the leniency demonstrated by his supervisor, were irresponsible. He not only disrupted the work of the Carrier, but inconvenienced his fellow workers. A less understanding supervisor may well have issued a much more stringent discipline against the employe much sooner. Instead, the supervisor in this case, utilized great patience and compassion in attempting to modify the Claimant's behavior. We can only hope the Claimant appreciates the effort.

The Claimant was afforded due process and was given a fair investigation. The actions of the Carrier were reasonable.

AWARD

The claim is denied.


Carol J. Zamperini, Neutral

Submitted:

May 20, 1988

Denver, Colorado