

SPECIAL ADJUSTMENT BOARD NO. 947

Claimant - R. J. Stokes
Award No. 76
Case No. 76

PARTIES
TO
DISPUTE

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

STATEMENT
TO CLAIM

That the Carrier's decision to suspend Claimant from its service for a period of five (5) 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, the Board finds 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.

The Claimant served as a Foreman for the Southern Pacific Transportation Company on Extra Gang 60. On April 2, 1988, it was discovered by two supervisors that the Claimant left work

early without receiving permission. He also failed to report to work the following day which was Easter Sunday, April 3, 1988. There was also confusion over whether or not the Claimant had worked only eight (8) hours on April 2, 1988, but had submitted a claim for ten (10) hours. As a result, the Employee was charged with several rule violations and the Carrier conducted a formal investigation on May 4, 1988.

By letter dated May 19, 1988, the Carrier advised the Claimant the evidence presented at the hearing was sufficient to find him responsible for violating Rule 604 of the Rules and Regulations of the Maintenance of Way and Structures. Those portions cited read:

Rule 604: DUTY REPORTING OR ABSENCES:
Employees must report for duty at the designated time and place, they must not absent themselves from duty. . . .without proper authority.

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

The Claimant, was suspended for a period of five (5) days.

During his testimony, the Claimant indicated he had spoken to his supervisor about three weeks prior to the alleged incident and indicated he would be leaving early on the day in question. He was told to put his request in writing which he did not do. About a week before Easter, he also advised his supervisor that he would not be reporting to work on Sunday, April 3. The supervisor did not remember either conversation, but he would not state for certain they had not taken place.

This Board believes that even if the Claimant had received

permission to leave early on April 2, 1988, the permission was conditional. He was told to make the request in writing. For whatever reason, he did not meet the requirement. As a result, his supervisor was not aware of the man power shortage and could not employ replacements. At the very least, if the Claimant had discussed the matter with his supervisor, as he testified, he had the responsibility to reiterate his intentions, in writing, before the day in question. The Claimant's actions showed a rather callous regard for his employer to the point of being derelict in his duties.

The Claimant has been disciplined several times for various rule infractions. On two occasions he has been dismissed. There is nothing in his record or in his actions in this case which would serve to mitigate the discipline issued by the Carrier. The Board believes the penalty was reasonable.

The Claimant was afforded a full and fair hearing.

AWARD

The claim is denied.


Carol J. Zamperini, Neutral

Submitted:

September 29, 1988
Denver, Colorado