

**NATIONAL RAILROAD ADJUSTMENT BOARD  
SECOND DIVISION**

Award No. 13281

Docket No. 13241

98-2-97-2-8

The Second Division consisted of the regular members and in addition Referee Robert Richter when award was rendered.

(International Association of Machinists and  
( Aerospace Workers

**PARTIES TO DISPUTE:** (

(The Burlington Northern and Santa Fe Railway Company

**STATEMENT OF CLAIM:**

**"Dispute - Claim of Employee:**

That the Atchison, Topeka and Santa Fe Railway Company (hereinafter referred to as the 'Carrier') violated Rule 40 of the Controlling Agreement, Form 2642-A Std., as amended, between the Atchison, Topeka and Santa Fe Railway Company and its Employees represented by the International Association of Machinists and Aerospace Workers (hereinafter referred to as the 'Organization') when it wrongfully and unjustly dismissed Kansas City, Kansas Machinist L. E. Manion (hereinafter referred to as the 'Claimant') cited in violation of various Carrier Rules for allegedly being absent without authority.

Accordingly, we request that for this improper discipline, he be compensated for all lost time and benefits as provided for in Rule 40 (i) of the Controlling Agreement, as amended. Additionally, we request that all records and reference to this matter be removed from his personal record."

**FINDINGS:**

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute were given due notice of hearing thereon.

On March 6, 1996 Claimant was ordered to appear at a formal Investigation on March 15, 1996 concerning being absent without authority. At the Organization's request the Investigation was postponed until March 19, 1996. As a result of the Hearing Claimant was dismissed from the service of the Carrier on March 28, 1996.

A review of the transcript reveals the Claimant received a fair and impartial Hearing even though not being present. Claimant was in jail for a period of one year because of a violation of probation.

It is clear that Claimant was absent without authority. The Carrier has a right to expect its employees to come to work, and while Claimant had 19 years of service, there is no basis to overturn the action of the Carrier.

### **AWARD**

Claim denied.

### **ORDER**

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

**NATIONAL RAILROAD ADJUSTMENT BOARD**  
**By Order of Second Division**

Dated at Chicago, Illinois, this 18th day of May 1998.