

PUBLIC LAW BOARD NO. 1582

PARTIES) THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY
TO)
DISPUTE) BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

STATEMENT OF CLAIM:

1. In certified letter dated November 3, 1988 Claimant Tovar was notified of termination of his seniority and employment for being absent without authority for more than five consecutive work days beginning October 28, 1988. Formal investigation held on January 4, 1989 with decision upholding the above handling.
2. Claim for reinstatement of Claimant Tovar with seniority, vacation, all rights unimpaired and with pay for all wages lost commencing October 28, 1988 forward until otherwise made whole account discipline being extreme, unwarranted, unjustified and unsupported by any of Carrier's rules.

FINDINGS: This Public Law Board No. 1582 finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, and that this Board has jurisdiction.

In this dispute Division Manager J. L. Fields wrote claimant Tovar a letter dated November 3, 1988 advising him that his seniority and employment were being terminated for his being absent without authority for more than five consecutive work days beginning October 28, 1988.

Pursuant to the investigation the claimant was removed from service for violating Rule 1004, Safety and General Rules for all Employees, Form 2629 Std.

The Union contends that the evidence was insufficient to support the charges and that assuming arguendo the Board finds the charges were sufficient, permanent discharge is too severe.

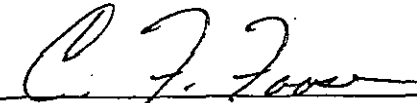
The Board has examined the transcript of record and finds that the claimant admitted he was absent from duty commencing Friday, October 28, 1988. The claimant stated he was absent until he called the Superintendent's Office on November 8, 1988. The claimant further stated he did not have authority to be absent during that period of time.

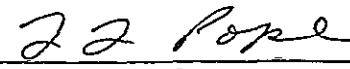
The evidence of record established that the claimant had previously been dismissed twice. Under those circumstances there is no justification to set the discipline aside.

AWARD: Claim denied.


Preston J. Moore, Chairman

Dated at Chicago, Illinois
August 22, 1989


Union Member


Carrier Member