

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: Claim in behalf of former Trackman G. A. Salas, Colorado Division, for reinstatement as follows:

1. That the Carrier violated the Agreement between the parties particularly, but not limited to, Article V of the current Agreement and Letter of Agreement dated July 13, 1976, file 11-680-20, when claimant was removed from service as a result of letter from Superintendent Hastings dated March 9, 1978.
2. That the Carrier reinstate claimant to his former position with seniority, vacation and all other rights unimpaired and with pay for all wage loss that might be sustained as a result of the removal outlined in part 1 of this claim.

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 the claimant last performed service for the Carrier on September 3, 1976. The claimant was on official sick leave from September 4, 1976 to December 31, 1977. The Carrier made several attempts to have the claimant submit a doctor's statement to support a further extension of his leave, but the claimant failed to furnish such statements.

On March 9, 1978 the claimant was sent a notice by the Carrier, pursuant to a Letter of Understanding dated July 13, 1976 with a copy to the General Chairman, advising that the claimant's seniority and employment had been terminated due to his being absent without proper authority, and that the claimant could, within twenty days of the notice, request an investigation under Article V of the Agreement. This letter was sent by registered mail, and the claimant signed a receipt for the notice on March 9, 1978.

The claimant did not request an investigation until he wrote a letter postmarked March 31, 1978. However, the claimant's letter is the Carrier's Exhibit J(1) and is dated March 27, 1978. The Organization progressed this claim in behalf of the claimant urging that the removal was unreasonable, arbitrary, discriminatory and excessive.


The Board has examined all of the evidence of record, including Exhibits A through K of the Carrier, as well as all the evidence submitted by the Organization.


The fact remains that the Carrier was extremely lenient with this employee and on March 9, 1978 the claimant was advised that he was being terminated and had the right to request an investigation within twenty days, which the claimant failed to do. It is true that the claimant's letter was dated March 27, 1978, but the postmark on the envelop, as evidenced by Carrier's Exhibit J, is dated March 31, 1978.

Evidence indicates that the claimant was not sincerely interested in protecting his job. On the foregoing basis the Board finds no basis to support the claim.

AWARD: Claim denied.


Preston J. Moore, Chairman


Organization Member


Carrier Member