

## PUBLIC LAW BOARD NO. 2774

Award No. 162

Case No. 162

PARTIES Brotherhood of Maintenance of Way Employees  
TO and  
DISPUTE The Atchison, Topeka and Santa Fe Railway Company

STATEMENT "1. That the Carrier violated the provisions of  
OF CLAIM the current Agreement on November 18, 1985,  
when Superintendent, G. H. Gill, dismissed  
Trackman, N. E. West, from the service of the  
Carrier on the basis of unproven and falla-  
cious charges, said acts to be capricious and  
in abuse of discretion.

2. The Carrier will now be required to reinstate Claimant to his former position with Seniority and all other rights restored, unimpaired, with compensation for all wage loss suffered."

## FINDINGS

Upon the whole record, after hearing, the Board finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended, and that this Board is duly constituted under Public Law 89-456 and has jurisdiction of the parties and the subject matter.

Claimant, who was working as a Trackman, was injured on September 14, 1985, and marked off on Monday September 16th for doctor's treatment and was scheduled to return to work on September 23, 1985.

While off duty, Claimant was arrested by the local sheriff and,

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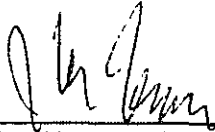
not being able to meet bond, remained in jail until late on September 25th. He reported to work on the following day, the 26th of September. He did not have permission to be off work on September 23, 24 and 25. Subsequently, presented to the Carrier was the doctor's note indicating that the Claimant had been under the doctor's care for the period that he was incarcerated.


Following an investigation, Carrier concluded that Claimant was guilty of being absent without authority and furnishing false information to cover his dates of absence. He was dismissed from service.

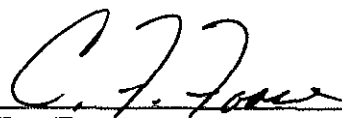
Evaluation of the transcript of the investigation in this matter reveals that there was substantial evidence at the hearing to establish the facts which are cited above. There is no real dispute with respect to what transpired. Claimant was indeed absent without authority on the three days and did furnish a report which he obtained improperly from a physician to cover his absence. Carrier's conclusion that he was guilty of the charges was well founded and the discipline involved was commensurate with the offense. The claim must be denied.

AWARD

Claim denied.

  
 I. M. Lieberman, Neutral-Chairman

  
 G. M. Garmon,  
 Carrier Member

  
 C. F. Foote,  
 Employee Member

Chicago, Illinois

March **31**, 1988