PUBLIC LAW BOARD NO. 2774

PARTIES   Brotherhood of Maintenance of Way Employees
TO
DISPUTE: and

        The Atchison, Topeka and Santa Fe Railway Company

STATEMENT OF CLAIM:

1. That the Carrier's decision to remove former Arizona Division Trackman R. Martin from service, effective February 27, 1989, was unjust.

2. Accordingly, Carrier should be required to reinstate Claimant Martin to service with his seniority rights unimpaired and compensate him for all wages lost from February 27, 1989.

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.
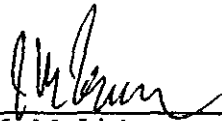
Claimant herein had entered Carrier's service as a trackman in 1948. Claimant was charged with submitting a late and false report of injuries suffered while on the job, and an investigation was held based on that charge on March 6, 1989. As a result of that hearing, Carrier found Claimant guilty and dismissed him from service.

According to the record, the injury allegedly incurred by Claimant took place on January 20, 1989. Further, Claimant did not work starting January 22, 1989. Subsequently, based on both time off due to injury and vacation time, Claimant never returned to work as the record indicates. Furthermore, it was indicated that Claimant retired from service subsequently.

Based on the entire record of this matter, it would serve no useful purpose to determine the issues involved herein, which are complex, on the merits, since they are moot. Claimant having retired no longer can possibly seek reinstatement, and clearly there were no lost wages involved since the issues of reinstatement were never addressed nor could they be addressed in view of the retirement. Thus, the dispute herein is dismissed.
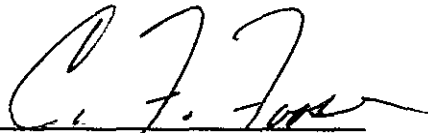
AWARD

Claim dismissed.

I. M. Lieberman, Neutral-Chairman

L. L. Pope
Carrier Member

C. F. Foose
Employee Member

Chicago, Illinois
June 2⅃ , 1991