

PUBLIC LAW BOARD NO. 2774

Award No. 32
Case No. 41

PARTIES
TO
DISPUTE

Brotherhood of Maintenance of Way Employees
and
Atchison, Topeka and Santa Fe Railway Company

STATEMENT
OF CLAIM

- "1. That the dismissal of Plains Division Trackman J.A. Redford was unjust.
2. That Claimant Redford be reinstated to service with seniority, vacation, all benefit rights unimpaired, pay for wage loss and/or otherwise made whole."

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 was employed by Carrier as a Trackman on August 6, 1979. On September 25, 1980 Claimant was terminated for being absent without proper authority from August 15, 1980 to September 25, 1980. Carrier's dismissal was accomplished in accordance with the letter of understanding dated July 13, 1976 which provides as follows:

"In connection with the application of Rule 13 of the current Agreement, this will confirm our understanding reached in conference today, that effective October 1, 1976, to terminate the employment of employee who is absent from duty without authority, the Company shall address such employee in writing at his last known address, by registered or certified mail, return receipt requested, with copy to the General Chairman, notifying him that his seniority and employment have been terminated due to his being absent without proper authority and that he may, within twenty days of the date of such notice, if he so desires, request that he be given an investigation under Rule 13 of the current Agreement."

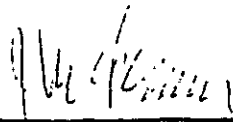
Following the dismissal letter dated September 25, 1980, on November 24, 1980 the instant claim for reinstatement was filed by Petitioner. Petitioner claimed that

Claimant's wife made an application for a leave of absence which was never approved or denied. The record indicates that Claimant's absence was caused by his incarceration in a state institution for a drug related charge and conviction.

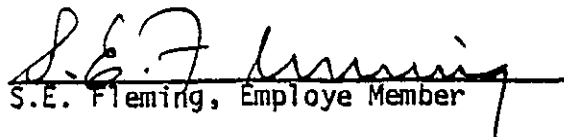
The Board after a study of the record, concludes that there was no impropriety in Carrier's action in this case. Carrier was well within its rights in determining that the appropriate discipline was dismissal for Claimant's absence for the period indicated. There was no requirement that the leave of absence be approved or that the absence be condoned. The claim must be denied.

AWARD

Claim denied.



I.M. Lieberman, Neutral-Chairman



S.E. Fleming, Employee Member



G.M. Garmon, Carrier Member

May 13, 1982
Chicago, IL