

PUBLIC LAW BOARD NO. 2774

Award No. 36
Case No. 45

PARTIES
TO
DISPUTE

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

STATEMENT
OF CLAIM

- "1. That the Carrier unjustly discipline Middle Division Bridge and Building Mechanic L.N. Beasley by (1) assessing his personnel record with twenty (20) demerits, October 13, 1980, (2) assessing his personnel record 30 (thirty) demerits, February 9, 1981 and (3) discharging him from service March 3, 1981.
2. That Claimant Beasley's personnel record be expunged of the twenty (20) demerits and thirty (30) demerits assessed October 13, 1980 and February 9, 1981 respectively and he be reinstated to service with seniority, vacation, all benefit rights unimpaired, paid 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 herein was employed by Carrier on September 3, 1974. As of October 12, 1980 his record indicated that he had a total of twenty demerits. Following an investigation held on November 14, 1980, Claimant was found guilty of being absent without authority on October 13 and 14, 1980 and assessed an addition twenty demerits. Further, an investigation was held February 24, 1981 which Claimant did not attend. As a result of that investigation, Claimant's record was assessed an addition thirty demerits for absence without proper authority on February 9, 10 and 11, 1981 and subsequently, by letter dated March 3, Claimant was dismissed from service in view of the total of seventy demerits on his record.

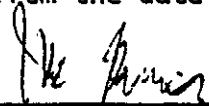
A review of the entire matter indicates that there were numerous allegations made with respect to propriety of various stages of the disciplinary process, including allegations with respect to improper notification for attendance at the February 1981 hearing. On balance, after a careful evaluation of the entire matter, the Board is of the opinion that the discipline accorded, in this instance, was too severe under all the circumstances. However, Claimant's persistent attendance problems require drastic penalty. For the reasons indicated, this Board is of the opinion that Claimant should be returned to service with all rights unimpaired with his record indicating fifty demerits at the time of his return to service. This, in effect, is his last chance to properly live up to his obligations to report for work on time and in a regular fashion. The mitigation of a dismissal in this instance must be treated as a serious final warning by Claimant.

AWARD

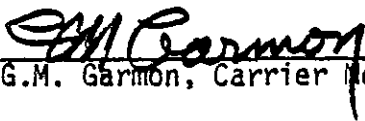
1. Claim sustained in part; Claimant will be returned to service with all rights unimpaired but without compensation for time lost.
2. Claimants records will indicate a total of fifty demerits at the time he is returned to service.

ORDER

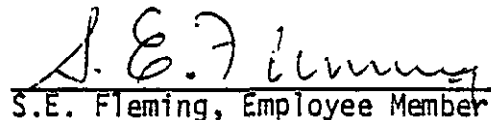
Carrier will comply with the Award herein within thirty days from the date hereof.



I.M. Lieberman, Neutral Chairman



G.M. Garmon, Carrier Member



S.E. Fleming, Employee Member

December 31, 1982
Chicago, IL