

## PUBLIC LAW BOARD NO. 2774

Award No. 47

Case No. 57

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 Southern Division Trackman R. H. Wright from service after a formal investigation was unjust.
2. That Claimant Wright be reinstated to service with seniority, vacation, all other 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 Wright was dismissed from service following an investigation held on April 28, 1981. He was found to be responsible for being absent in excess of ten calendar days without an authorized leave of absence.

From the record of the investigation, in this matter, there is no doubt but that Claimant was guilty of the charge. However, further careful examination reveals that there was apparently some misunderstanding between the Claimant and his Foreman concerning a medical absence for the period in question. There is no doubt but that the Claimant should

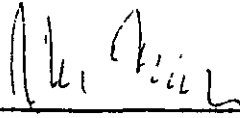
have secured a leave of absence for the period involved, but in view of the peculiar circumstances in this case, the Board believes that the discipline accorded him was harsh and unnecessarily severe. For that reason, Claimant will be reinstated to his former position with all rights unimpaired but without compensation for time lost.


AWARD

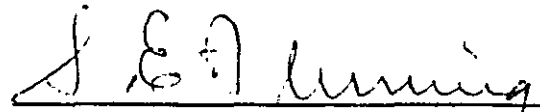
Claim sustained in part; Claimant will be reinstated to his former position with all rights unimpaired in view of the unnecessarily harsh and arbitrary discipline accorded him. He will not be paid for time lost.

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

February 8, 1983  
Chicago, IL