

PUBLIC LAW BOARD NO. 2774

Award No. 48
Case No. 58

PARTIES
TO
DISPUTE

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

STATEMENT
OF CLAIM

- "1. That the Carrier violated the provisions of the Party's Agreement when they unilaterally dismissed Mr. S. L. Martin from service April 16, 1981, without according him 'due process'.
2. That the Carrier now reinstate Claimant Martin with seniority, vacation, all benefit rights unimpaired, and pay for all wage loss beginning April 6, 1981, continuing forward and/or otherwise made whole."

FINDINGS

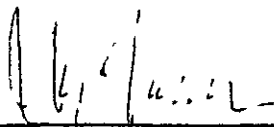
Upon the whole record, after hearing, the Board finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended, and that this Board is duly constituted under Public Law 89-456 and has jurisdiction of the parties and the subject matter.

Claimant entered Carrier's service on April 7, 1980. On February 27, 1981, Claimant was written a letter indicating that his personal records stood with a charge totalling 45 demerits and that 60 demerits would subject him to dismissal. Subsequently on April 15, 1981, Claimant signed two waivers for a total of 30 demerits which gave him a total of 75 demerits. Subsequently, in view of the number of demerits accumulated on April 29, 1981, Claimant was terminated.

An analysis of the entire record of this matter indicates that there was no deprivation of due process with respect to the Claimant since he received proper notification of the status of his demerit account prior to his signing waivers for additional demerits. Thus, as of his date of termination, he was well in excess of the number of demerits which subjected him to dismissal in accordance with the Brown System of Discipline. It is the Board's conclusion that in view of Claimant's short service (12 months of service) his removal from service was entirely justified in view of the 75 outstanding demerits.

AWARD

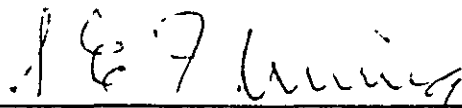
Claim denied.



I. M. Lieberman, Neutral Chairman



G. M. Garmon, Carrier Member



S. E. Fleming, Employee Member

February 8, 1983
Chicago, IL