

PUBLIC LAW BOARD NO. 2774

Award No. 63
Case No. 98

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

<u>STATEMENT</u> <u>OF CLAIM</u>	
	"Claim on behalf of former Fuel Laborer Jack Dunham, Albuquerque Division, for reinstatement with seniority, vacation, all other basic benefits restored and compensation for all wage loss and/or otherwise made whole beginning March 22, 1982."

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 been on layoff. The record indicates that on or about March 1, 1982, claimant was verbally notified that he was being recalled to service. In addition, by letter dated March 1 (mailed on March 2) this fact was verified in writing. The same letter was sent to the claimant's last known address by certified mail on approximately March 3.

Rule 2(c) of the Agreement provides in part as follows:

"....failure to report on the date indicated in the notification of recall, not to exceed fifteen (15) calendar days from date of notification of recall, forwarded to the employee's last known address, without a satisfactory reason, will result in forfeiture of seniority in the class where recalled."

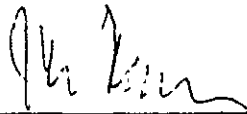
The record indicates that claimant did not report to work by March 16, 1982, nor thereafter. As a result of this action, Carrier notified claimant that he was absent without authority and was being terminated. Following an investigation, Carrier's decision to terminate claimant was reaffirmed.


There is no question but that claimant received a notification verbally on March

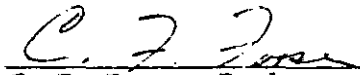
1 that he was being recalled to work. This was confirmed in writing and, even though claimant indicates that he did not receive the certified copy of the letter until approximately March 16, there is no question that he was adequately notified both verbally and in writing of his recall. The record of the investigation in this matter reveals no mitigating circumstances which would require consideration in terms of claimant's failure to report for work as requested in the recall. The late receipt of the certified letter is far from adequate to explain claimant's failure to report in view of his acknowledged information concerning the recall on March 1. The claim must be denied.

AWARD

Claim denied.


I. M. Lieberman, Neutral-Chairman


G. M. Garmon, Carrier Member


G. F. Foote, Employee Member

Chicago, Illinois
December 7, 1983