

PUBLIC LAW BOARD NO. 3241

In the Matter of:)	National Mediation Board
)	Administrator
BROTHERHOOD OF MAINTENANCE OF)	
WAY EMPLOYES,)	
)	
Organization,)	
)	
and)	Case No. 32
)	Award No. 32
UNION PACIFIC RAILROAD)	
COMPANY,)	
)	
Carrier.)	
)	
)	

Hearing Date: January 26, 1989
Hearing Location: Sacramento, California
Date of Award: December 13, 1989

MEMBERS OF THE COMMITTEE

Employes' Member: C. F. Foose
Carrier Member: L. E. Smith
Neutral Member: John B. LaRocco

ORGANIZATION'S STATEMENT OF THE CLAIM

1. That the Carrier violated the current Agreement when it dismissed Welder E. B. Helmer. Said action being excessive, unduly harsh and in abuse of discretion.
2. That the Carrier reinstate Claimant to his former position with seniority and all other rights restored unimpaired with compensation for all wage loss suffered, and his record cleared of all charges.

Carrier File No. 870928

OPINION OF THE BOARD

This Board, after hearing upon the whole record and all evidence, finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act as amended; that this Board has jurisdiction over the parties and the subject matter of the dispute herein; that this Board is duly constituted by an Agreement dated July 23, 1982; and that all parties were given due notice of the hearing held on this matter.

From March 13 through March 31, 1987, Claimant, a Bridge Welder, failed to report to his assignment. Claimant did not call the Carrier or otherwise mark off absent. Carrier officials and a Special Agent unsuccessfully attempted to contact Claimant.

Although the return receipts indicate that a certified letter notifying Claimant of an April 14, 1987 investigation was delivered to Claimant's residence, Claimant did not appear at the investigation. Indeed, Claimant continued to be absent from work without permission through April 14, 1987.

Claimant's continuous and unexplained absence demonstrates that he has abandoned his employment. In addition, Claimant's failure to appear at the investigation manifests his desire to sever his employment relationship with the Carrier. Therefore, the Carrier proffered substantial evidence that Claimant was absent without proper authority.

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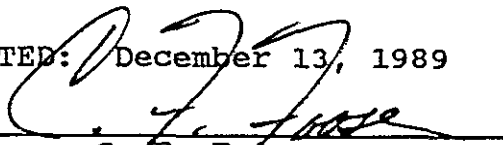
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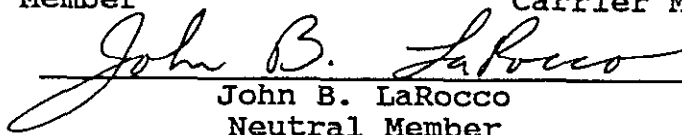
AWARD AND ORDER

Claim denied.

DATED: December 13, 1989


C. F. Foose
Employees' Member


L. E. Smith
Carrier Member


John B. LaRocco
Neutral Member