

PUBLIC LAW BOARD NO. 3241

In the Matter of:	)	National Mediation Board
	)	Administrator
	)	
BROTHERHOOD OF MAINTENANCE OF	)	
WAY EMPLOYEES,	)	
	)	
Organization,	)	
and	)	
	)	
UNION PACIFIC RAILROAD	)	Case No. 40
COMPANY,	)	Award No. 40
	)	
Carrier.	)	
<hr/>		

Hearing Date: June 4, 1992  
Hearing Location: Sacramento, California  
Date of Award: April 16, 1993

MEMBERS OF THE BOARD

Employees' Member: C. F. Foose  
Carrier Member: D. A. Ring  
Neutral Member: John B. LaRocco

ORGANIZATION'S STATEMENT OF THE CLAIM

1. That the Carrier violated the current Agreement when it dismissed Track Laborer M. Tsosie. Said action being excessive, unduly harsh and in abuse of discretion.
2. That the Carrier shall now be required to reinstate Claimant to his former Carrier position with seniority and all other rights restored unimpaired with pay for all loss of earnings suffered, and his record cleared of all charges.

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.

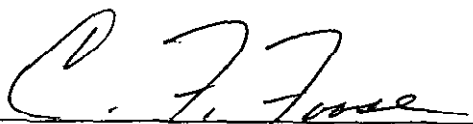
Pursuant to notice dated August 4, 1989, the Carrier charged Claimant with being absent without proper authority from July 17, 1989 through August 2, 1989. Claimant did not appear at the August 11, 1989 investigation. The Track Supervisor of Gang 9210 testified that Claimant, a Laborer, had last worked with the gang at Elko, Nevada on July 14, 1989. Since that date, Claimant had not reported to work and had not contacted Carrier to mark off absent. The supervisor asked Claimant's brother, who also worked on the gang, about Claimant's absences. Claimant's brother responded that he did not know Claimant's whereabouts and he believed that Claimant quit his employment with the railroad.

This Board must uphold the Carrier's decision to dismiss Claimant from service. He was absent without proper authority for a prolonged period of time without contacting the Carrier. The Carrier made a good faith attempt to try to locate Claimant but even Claimant's brother was unable to shed any light on Claimant's physical location. Due to his short length of service (the Carrier hired Claimant on November 3, 1988), this Board finds no reason to disturb the assessed discipline.

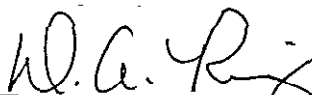
AWARD AND ORDER

Claim denied.

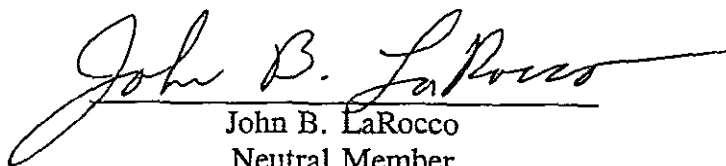
Dated: April 16, 1993



C. F. Foose  
Employees' Member



D. A. Ring  
Carrier Member



John B. LaRocco  
Neutral Member