

PUBLIC LAW BOARD NO. 3308

Award No. 17

Case No. 18

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

STATEMENT
OF CLAIM

"Claim for reinstatement of former Trackman J. W. Krack, Middle Division, and that 'he be compensated for all wage loss and/or otherwise made whole', account the claimant's name being improperly removed from the seniority roster for failure to respond to recall."

FINDINGS Upon the whole record, the Board finds that the parties herein are Carrier and Employee 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, who was an off-in-force-reduction employee, was recalled to service under the provisions of Rule 2, Section (c). The employee failed to report as directed and his name was removed from the seniority roster.

The pertinent part of Rule 2, Section (c) reads as follows:

"xxx 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 Organization contends that Claimant was discharged without the benefit of a formal investigation in violation of Rule 13-DISCIPLINE.

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We have reviewed this record in detail and can find no probative evidence to show Claimant complied with the mandatory provisions of Rule 2, Section (c). The Board's conclusion that the rule is self-executing and provides for an automatic loss of seniority is consistent with numerous awards of various Divisions of the National Railroad Adjustment Board.

This type of self-executing rule is not within the contemplation of Rule 13, therefore, the Agreement was not violated.

AWARD Claim denied.

M. Carmon
Carrier Member

Clarence H. Herrington
Clarence H. Herrington
Neutral Member
S. E. F. Fleming
Organization Member

Dated at Chicago, Illinois
March 1, 1983