

Award No. 117
Case No. 119

PUBLIC LAW BOARD NO. 4244

PARTIES) ATCHISON, TOPEKA AND SANTA FE RAILWAY CO.
TO THE) AND
DISPUTE) BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

STATEMENT OF CLAIM: Carrier's decision to remove former Central Region Foreman David Balandran from service, effective October 30, 1992, was unjust.

Accordingly, Carrier should be required to reinstate Claimant Balandran to service with his seniority rights unimpaired and compensate him for all wages lost from October 30, 1992.

FINDINGS: This Public Law Board No. 4244 (the "Board") finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended. Further, the Board has jurisdiction over the parties and the subject matter involved.

The record shows that former Central Region Foreman David Balandran (the "Claimant") was notified to attend a formal investigation on October 30, 1992, concerning his alleged misuse of a Carrier credit card on September 22, 1992, in violation of Rules A, B, D, L, 1007, 1009, 1013 and 1018 of the Carrier's Safety and General Rules for All Employees. Pursuant to the investigation the Carrier determined that the Claimant violated the cited rules, and he was removed from service.

The evidence and testimony of record was not disputed. In summary, the Claimant purchased gasoline for a private vehicle at the Holiday Texaco Station in Amarillo, Texas, on September 22, 1992, at approximately 5:22 p.m. The Carrier learned of this transaction from the attendant at the Texaco Station. Special Agents W. L. Hanna and C. W. Holden conducted an investigation of this matter, and on October 20, 1992, Holden interviewed the Claimant as part of the Carrier's police investigation. During the interview, the Claimant admitted that he made the purchase. He stated to Holden, and testified at the formal investigation, that he was low on funds and needed what money he had to purchase gasoline en route of his return trip to his home in El Paso, Texas.


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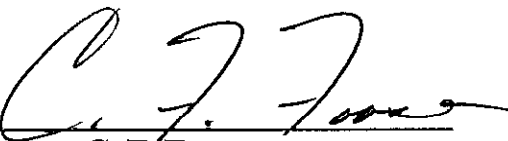
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Based on the record, the Board finds that the evidence of record supports the Carrier's determination that the Claimant violated the cited rules. The Claimant committed a serious offense and his removal from service was not excessive. However, the Board believes that based on the Claimant's cooperation with the police investigation, disclosures and admissions, and his work record, the Claimant should be given a "last chance" opportunity to return to Carrier service and demonstrate that he can be a responsible employee. Thus, the Claimant will be returned to service with his seniority rights unimpaired, but without pay for time lost.


AWARD: Claim sustained as set forth above.



Alan J. Fisher
Chairman and Neutral Member



C. F. Foose
Organization Member



Lyle L. Pope
Carrier Member

Dated: March 1, 1994
Schaumburg, Illinois