

Award No. 129  
Case No. 134

**PUBLIC LAW BOARD NO. 4244**

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

**STATEMENT OF CLAIM:** Carrier's decision to remove former Southern Region, Seniority District No. 1 Trackman D. L. Tankersley from service, effective July 29, 1993, was unjust.

Accordingly, Carrier should be required to reinstate Claimant Tankersley to service with his seniority rights unimpaired and compensate him for all wages lost from July 29, 1993.

**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 in a letter dated July 29, 1993, former Southern Region Trackman D. L. Tankersley (the "Claimant") was notified that his seniority and employment were terminated for being absent without authority for more than five consecutive work days beginning July 19, 1993. He was further advised that within twenty days of the date of the letter he could request a formal investigation under Rule 13 of the Agreement.

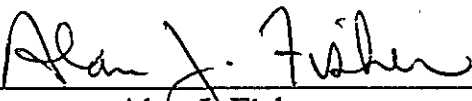
The record further shows that the Claimant requested an investigation. The investigation was scheduled for August 20, 1993, concerning his possible violation of Rules B and 1004 of the Carrier's Safety and General for All Employees as a result of being absent from duty without proper authority beginning July 19, 1993. Pursuant to the investigation the Carrier determined that the Claimant violated the cited rules, and his removal from service was upheld.

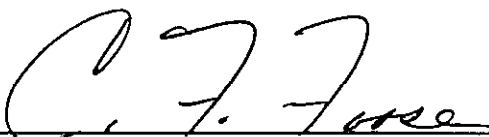
There is no dispute that the Claimant was absent from duty without proper authority. The Claimant admitted at the formal investigation that he did not have

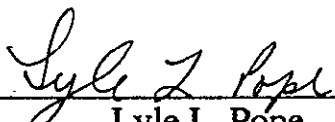
permission to be absent. He also testified that he wanted to extend his vacation for two more weeks in the Kansas City area, but he did not know who to contact in Texas to obtain permission to do so because his foreman, R. Puckett, was on vacation, too.

Based on the record the Board finds that the Claimant's removal from service was proper. The Claimant was absent from duty without proper authority, and consistent with the Board's previous awards, the Carrier has every right to expect its employees to report for their assignments. However, after reviewing the Claimant's personal record and length of service with the Carrier, it is the Board's decision that the Claimant should be given the opportunity to show that he is a responsible employee. Thus, he 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: October 19, 1994  
Schaumburg, Illinois