

Award No. 130  
Case No. 135

**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 Western Region, Seniority District No. 1 Trackman L. P. Bryan from service, effective August 5, 1993, was unjust.

Accordingly, Carrier should be required to reinstate Claimant Bryan to service with his seniority rights unimpaired and compensate him for all wages lost from August 5, 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 June 8, 1993, former Western Region Trackman L. P. Bryan (the "Claimant") was notified that his seniority and employment were terminated for being absent without authority for more than five consecutive work days beginning May 17, 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 and he received proper notice of the hearing by a certified letter dated June 22, 1993. The notice stated that an investigation was scheduled for July 14, 1993, concerning his possible violation of Rules B, 1000 and 1004 of the Carrier's Safety and General for All Employees as a result of being absent from duty without proper authority beginning May 17, 1993. However, the Claimant did not attend the investigation. Pursuant to the investigation the Carrier determined that the Claimant violated the cited rules, and his removal from service was upheld.

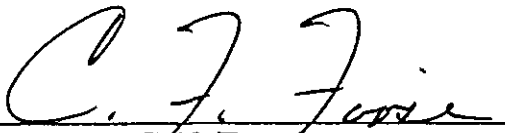
Administrative Coordinator E. Martin testified at the formal investigation that Roadmaster L. Truitt informed him on June 8, 1993, that the Claimant had not reported for work since May 17. The Carrier then investigated the matter to establish that the Claimant was absent without permission rather than he had been paid on another gang or had received vacation pay for the time period at issue. Later that day, after it was confirmed that the Claimant was absent without permission, the Claimant was notified by letter that he was removed from service. Martin further testified that the Claimant contacted him to discuss the investigation and admitted to Martin that he had been absent from work because of personal matters.

After reviewing the evidence and testimony of record, the Board finds that the Claimant's removal from service was proper. Moreover, the Board notes that the Claimant had been removed from service 1990 for being absent without proper authority. Under the circumstances of this case, the Carrier did not violate the agreement when it held the investigation *in absentia*, and there is no basis to set aside or modify the discipline.

**AWARD:** Claim denied.



Alan J. Fisher  
Chairman and Neutral Member



C. F. Foosé  
Organization Member



Lyle L. Pope  
Carrier Member

Dated: October 19, 1994  
Schaumburg, Illinois