

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:** 1. That the Carrier's decision to suspend Eastern Region, Structures Foreman J. M. Sansom from service for a five (5) day suspension and a twenty-five (25) day deferred suspension was unjust.
2. That the Carrier now rescind their decision and pay for all wage loss as a result of Investigation held 1:00 P.M., June 14, 1994 continuing forward and/or otherwise made whole, because the Carrier did not introduce substantial, credible evidence that proved that the Claimant violated the rules enumerated in their decision, and even if Claimant violated the rules enumerated in the decision, suspension from service is extreme and harsh discipline under the circumstances.
3. That the Carrier violated the Agreement particularly but not limited to Rule 13 and Appendix 11, because the Carrier did not introduce substantial, credible evidence that proved the Claimant violated the rules enumerated in their decision.

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 May 18, 1994, Eastern Region Structures Foreman J. M. Sansom (the "Claimant") was notified to attend a formal investigation on May 27, 1994, concerning his alleged absence from duty without proper authority on April 21, 1994, and claim for payment for duties not performed on that day in possible violation of Rules B, 1004 and 1007 of the Carrier's Safety and General Rules for All Employees. The investigation was postponed and held on June 17, 1994. Pursuant to the investigation the Carrier determined that the Claimant violated the cited rules and he was assessed five days actual suspension and 25 days deferred suspension beginning June 20, 1994.

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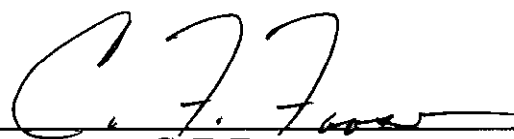
In summary, the record shows that Supervisor of Structures L. C. McNeely testified that he visited the job site on the Enid Subdivision to check the progress of a tie renewal project where the Claimant was working. McNeely arrived at the work area at approximately 2:45 p.m. and observed that the Claimant was not at the job site. Structures Mechanic K. P. Greene informed McNeely that the Claimant had left for home to attend an event at his daughter's school. McNeely testified that when he received the Claimant's work diary for April 21, the Claimant recorded that he had worked 10 hours on April 21.

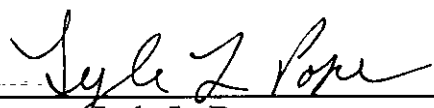
The Claimant acknowledged at the investigation that he did not have permission to leave work early on April 21. However, he further testified that under the local instructions he did not believe that he needed McNeely's permission. Last, he declared that it was an inadvertent error on his part when he failed to subtract the three hours from his submitted time sheets.

After a review of the record the Board finds no basis to set aside the discipline. Further, under the circumstances of this case, the discipline assessed the Claimant was not excessive.

AWARD: Claim denied.


Alan J. Fisher
Chairman and Neutral Member


C. F. Foose
Organization Member


Lyle L. Pope
Carrier Member

Dated: December 15, 1994
Schaumburg, Illinois