

PUBLIC LAW BOARD NO. 4244

ATCHISON, TOPEKA AND SANTA FE RAILWAY CO.
AND
BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

STATEMENT OF CLAIM:

1. That the Carrier's decision to remove Welder Arthur C. Odle from service was unjust.
2. That the Carrier now reinstate Claimant Odle with seniority, vacation, all benefit rights unimpaired and pay for all wage loss as a result of Investigation held 10:00 A.M., December 12, 1995 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, removal 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.

In this dispute, Welder Arthur C. Odle (the "Claimant") was notified to attend a formal investigation on November 10, 1995, in San Bernardino, California, concerning his alleged absence without proper authority on October 24, 26, 27, 30 and 31, 1995, as well as alleged misconduct on October 25, 1995 in violation of Rules 1.4, 1.6 and 1.15, of the Carrier's General Code of Operating Rules. The investigation was postponed and held on December 12, 1995. Pursuant to the investigation, the Carrier determined that the Claimant violated the cited rules, and he was issued a Level 6 discipline, dismissal from service.

The record shows that the Claimant received proper notice of the investigation and the subsequent postponement, but he did not attend the formal investigation.

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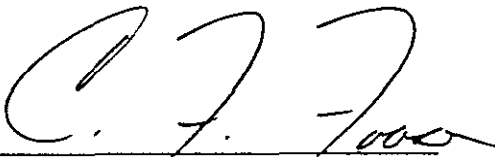
In summary, the record shows that the Claimant was absent without proper authority on October 24, 1995. The Claimant worked as scheduled on October 25, 1995, but failed to report for duty on October 26, 1995. The record further shows that the Claimant has been absent without proper authority since October 26, 1995.

Based on a review of the evidence of record, the Board finds that the Claimant violated Rules 1.4, 1.6 and 1.15, of the General Code of Operating Rules. Further, the Board finds no merit to the allegation of Claimant misconduct on October 25, 1995.

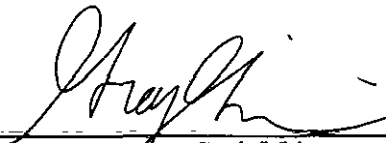
AWARD: Claim denied.



Alan J. Fisher
Chairman and Neutral Member



Clarence F. Foose
Organization Member



Greg Griffin
Carrier Member

Dated:

3/29/96
Fort Worth, Texas