

Award No. 65  
Case No. 67

**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 Kansas Division Trackman D. B. Sears from service, effective July 17, 1989, was unjust.

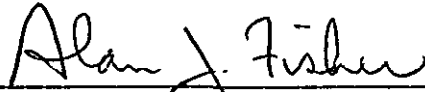
Accordingly, Carrier should be required to reinstate Claimant Sears to service with his seniority rights unimpaired and compensate him for all wages lost from July 17, 1989.

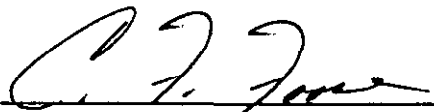
**FINDINGS:** This Public Law Board No. 4244 (the "Board") finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended. Further, the Board has jurisdiction over the parties and the subject matter involved.

In a letter dated July 20, 1989, the Carrier notified former Kansas Division Trackman D. B. Sears (the "Claimant") that his seniority and employment were terminated that date due to his accumulation of excessive demerits. The letter further stated that such action was taken pursuant to Letter of Understanding dated April 16, 1979. The Letter of Understanding provides in pertinent part that an employee who has accumulated excessive demerits, 60 or more, may be removed from service without holding a formal investigation.

The record shows that the Claimant had twenty (20) demerits against his record on June 26, 1989 when he signed discipline waivers for twenty (20) demerits each on July 11 and 13, 1989. Based on the evidence of record, and consistent with previous awards issued by the Board, the Claimant's removal from service was appropriate.

AWARD: Claim denied.

  
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Alan J. Fisher  
Chairman and Neutral Member

  
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C. F. Foose  
Organization Member

  
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Lyle L. Pope  
Carrier Member

Dated: November 12, 1990  
Chicago, Illinois