

AWARD NO. 14

Case No. 16

PUBLIC LAW BOARD NO. 4823

PARTIES) THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY
TO) versus
DISPUTE) BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

STATEMENT OF CLAIM:

"1. That the Carrier's decision to remove California Division Trackman L. P. Bryan from service was unjust.

2. That the Carrier now reinstate Claimant Bryan with seniority, vacation, all benefit rights unimpaired and pay for all wage loss as a result of investigation held February 14, 1990, continuing forward and/or otherwise made whole, because the Carrier did not introduce substantial, creditable (sic.) evidence that proved that the Claimant violated the rules enumerated in their decision, permanent removal from service is extreme and harsh discipline under the circumstances."

FINDINGS:

This Public Law Board No. 4823 finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended, and that this Board has jurisdiction.

On January 9, 1990, Carrier's Division Manager wrote the claimant, pursuant to Letter of Understanding dated July 13, 1976, notifying him that his seniority and employment were terminated due to his being absent without proper authority beginning October 10, 1989, and that he could, if he desired, within 20 days from January 9, 1990, request a formal investigation. The claimant requested a formal investigation which was held on February 14, 1990. As a result of the formal investigation, the claimant was found responsible for violation of Rules A, B, 1000 and 1004 of the Safety and General Rules for All Employees, for which he was removed from service.

In the investigation the claimant admitted that he was absent without proper authority as charged. He testified to the effect that he had been going through a divorce and was trying to get his emotions under control. He also stated that he now has everything "squared away."

The claimant's discipline record is fairly good and the Carrier's witness, Roadmaster R. L. Walters, testified that he had been a productive employee.

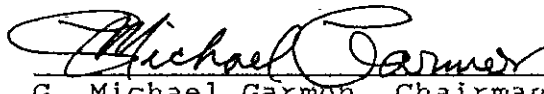
Under the circumstances of this particular case, the Board finds that the claimant was properly found responsible for being absent from duty without proper authority and his removal from service was an appropriate measure of discipline. However, the discipline has now served it's purpose.

AWARD:

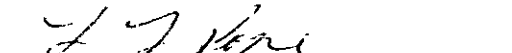
The claimant will be reinstated, without pay for time lost.

ORDER:

Carrier is directed to comply with the Award within thirty (30) days from the date shown thereon.


G. Michael Garmon, Chairman


Employee Member


Carrier Member

Dated at Chicago, IL

Nov 14, 1990