

AWARD NO. 34

Case No. 34

PUBLIC LAW BOARD NO. 4823

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

STATEMENT OF CLAIM:

"Carrier's decision to remove former California Division Trackman Frank Romero from service, effective June 25, 1990, was unjust.

Accordingly, Carrier should now be required to reinstate the claimant to service with his seniority rights unimpaired and compensate him for all wages lost from June 25, 1990 (11-680-120-879/190-13A1-9024)"

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 June 25, 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 June 14, 1990, and that he could, if he desired, within 20 days from June 25, 1990, request a formal investigation. The claimant requested a formal investigation, which was held on August 2, 1990. Claimant, however, did not attend the investigation. Following the investigation, Claimant was removed from service for violation of Rule 1004, Safety and General Rules for All Employees, upholding his termination effective June 25, 1990.


The claimant's failure to attend the investigation, absent some evidence of mitigating circumstances justifying his absence, is tantamount to a plea of no defense. The Board finds that he was properly found to be in violation of the rule cited in the notice of investigation, and his removal from service was entirely appropriate for his

responsibility in connection therewith.

AWARD: Claim denied.

  
G. Michael Garmon, Chairman

  
Employee Member

  
Carrier Member

Dated at Chicago, IL:

April 22, 1991