

PUBLIC LAW BOARD NO 5850

Award No. .
Case No. 21

PARTIES TO DISPUTE:

(Brotherhood of Maintenance of Way Employees

(The Burlington Northern Santa Fe Railroad

STATEMENT OF CLAIM.

Carrier's decision to dismiss System Steel Trackman W. Tsosie, effective June 13, 1995 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 13, 1995. (95-11-117/240-13A1-9517)

FINDINGS

Upon the whole record and all the evidence, the Board finds that the parties herein are carrier and employee within the meaning of the Railway Labor Act, as amended. Further, the Board is duly constituted by Agreement, has jurisdiction of the Parties and of the subject matter, and the Parties to this dispute were given due notice of the hearing thereon.

On July 6, 1995, Carrier wrote Claimant as follows:

"...This is to advise you that, effective June 13, 1995, your seniority and employment with The Santa Fe Railway company is hereby terminated pursuant to the provisions of Letter of Understanding dated July 13, 1976 for being absent without proper authority for more than five (5) consecutive work days beginning June 5, 6, 7, 8, 9 and 12 forward.

If you dispute the action taken hereinabove, you may, if you desire, request to be given an investigation under the provisions of Rule 13 of the current agreement. Such request for investigation must be made to this office at the address noted below within twenty (20) days from the date of this notice....

If no request for investigation is received in my office within the twenty day period, the matter of your employment termination will be considered closed...."

Claimant did not timely request an Investigation, thus Carrier's facts of Claimant's absences without authorization on June 5, 6, 7, 8, 9, 12 and forward stands unchallenged.

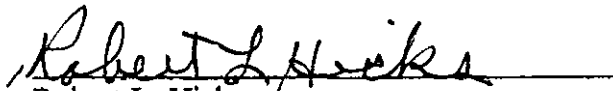
Pursuant to Appendix No. 11, this Board has no other alternative than to support Carrier's decision to terminate seniority and employment rights.

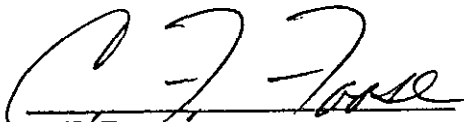
AWARD

Claim denied

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.


Robert L. Hicks
Chairman & Neutral Member


C. F. Foose
Labor Member


Greg Griffin
Carrier Member

Dated 1/13/97