

PUBLIC LAW BOARD NO. 1582

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

STATEMENT OF CLAIM: 1. That the Carrier violated the Agreement between the parties when they unilaterally refused Bridge and Building Mechanic J. R. Holt leave of absence December 12, 1978, and subsequently removed him from service December 20, 1978, said dismissal being arbitrary and in abuse of discretion.

2. That the Carrier now reinstate claimant to his former position with seniority, vacation, all other rights unimpaired and compensate him for all wage loss beginning December 20, 1978 continuing forward until restored to service.

FINDINGS: This Public Law Board No. 1582 finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, and that this Board has jurisdiction.

In this dispute the claimant was notified to attend a formal investigation at Winslow, Arizona on December 20, 1978. Claimant was charged with failing to report for duty upon expiration of his leave of absence December 13, 1978 as instructed by General B&B foreman Iler. The investigation was held as scheduled, and the claimant did not attend.

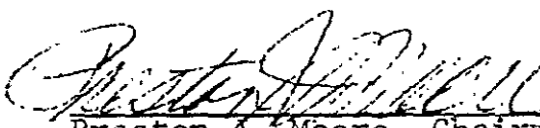
Evidence of record indicates that the claimant was instructed to report for duty December 13, 1978 or present the Carrier with further medical evidence to support further leave. The claimant failed to do so, and under the circumstances discipline is in order.


However, the claimant had no justification, but under the circumstances may have been confused sufficiently to justify a finding that permanent discharge is too severe. On that basis the Carrier is directed to reinstate the claimant with seniority and all other rights unimpaired without pay for time lost.

AWARD: Claim sustained as per above.

ORDER: The Carrier is directed to comply with this award within thirty days from the date of this award.

  
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Organization Member

  
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Preston J. Moore, Chairman

  
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Carrier Member