

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: Claim on behalf of former Trackman T. E. Parish, Middle Division, for reinstatement to his former position with seniority, vacation, all other rights unimpaired and pay for time lost and/or otherwise made whole.

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 trackman was a Middle Division Trackman when on July 2, 1982 the Superintendent wrote the claimant a letter advising that he was terminated from his seniority and employment for being absent without proper authority.

The Organization filed a claim in claimant's behalf alleging that the claimant was on leave account of an on the job injury and the Carrier did have information available to them which reflected the claimant's status. The Organization pursued the claim, and the Carrier refused the appeal alleging there was no valid basis for the claim.

Evidence of record indicates that on April 23, 1982 the claimant was recalled by the Carrier effective May 10, 1982. The claimant received the letter but failed to contact the Division Engineer's Office or report for duty as instructed in the letter.

On May 12, 1982 the claimant delivered a note from his personal doctor to the Assistant Division Engineer requesting that the claimant be excused from duty because of a back strain. The claimant was instructed to have his doctor complete Form 2820-SPL. The claimant did so. The claimant's doctor stated on that form that claimant should be off work for approximately 45 days, and the claimant was placed on leave of absence from May 10 through June 24.

On June 15, 1982 the claimant was notified by certified letter that he must have Form 2820 completed by his doctor and returned to the Carrier prior to his reporting for duty at the expiration of his medical leave of absence. The claimant did not report to work on June 25, nor did he respond to the certified letter of the Carrier. Rule 22, Sect C states:

PERSONNEL DEPARTMENT

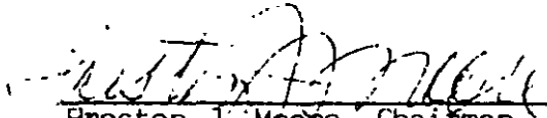
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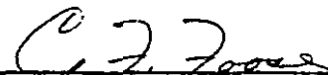
"An employee who fails to report for duty at the expiration of leave of absence or period covered by doctor's recommendation, shall be considered as absent without authority."


The evidence indicates that the Carrier complied with the Letter Agreement dated July 13, 1976 and further that the claimant failed to request an investigation within 20 days as provided therein.

Under the circumstances the Board has no authority to overrule the decision of the Carrier.

AWARD: Claim denied.


Preston J. Moore, Chairman


Organization Member


Carrier Member

Dated at Chicago, Illinois
August 23, 1983