

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. Carrier's decision to remove former Colorado Division Group 7 Operator J. F. Santillanes from service, effective November 18, 1986, was unjust.

Accordingly Carrier should be required to reinstate Santillanes to service with his seniority rights unimpaired and compensate him for all wages lost from November 18, 1986.

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 Carrier, by letter dated November 18, 1986, notified the claimant that his seniority and employment were terminated due to his being absent without proper authority since the date of November 7, 1986. The claimant was further advised therein that he could request an investigation under Rule 13, Appendix No. 11 if he so desired.

Thereafter the investigation was held in LaJunta, Colorado on January 15, 1987 to develop the facts and place the responsibility, if any, concerning the claimant's possible absence without proper authority since November 7, 1986, in excess of ten days, in possible violation of Rules 2, 13, and 15, General Rules for the Guidance of Employees, 1978, Form 2626 Standard.

Pursuant to the investigation the claimant was found guilty, and the claim was denied by the Carrier.

The Union contended that the claimant had requested a sixty day leave of absence prior to the charges. The claimant testified that he received a copy of the November 18, 1986 letter. He also testified that the last date he performed service for the Carrier was November 6, 1986. He testified he did not perform any service for the Carrier after November 6 and that he did not report for duty at any time after November 7, 1986.

The claimant stated that he had requested a leave of absence. The claimant admitted that he had been absent fifteen days without authority. The claimant admitted it was the normal practice for him to seek authority prior to being absent.

The evidence establishes that the claimant was absent on November 7, 10, 11, 12, 13, 14 and 15, 1986. The record also establishes that he was absent November 17, 18, 19, 20 and 21, 1986. Since the claimant was absent in excess of ten days without authority, there was justification for the termination.

W. K. Hallows, Division Engineer, testified that the claimant called and made a verbal request for a leave of absence. He testified that the claimant stated there was a possibility of his being incarcerated for three to four years and asked if it was possible to obtain a leave of absence. Mr. Hallows stated that he advised the claimant it was not the normal procedure with the Carrier to grant a leave of absence in excess of ninety days, and for that reason an extended leave of absence could not be granted. He also stated that he talked to the claimant again on November 11 and advised him if he wished to do so, he could obtain forms and request a leave of absence to be approved by the General Manager's Office.

Mr. Hallows also testified that he received a request for a leave of absence from the claimant's attorney who was appealing his case. He testified that he then requested a leave of absence in behalf of the claimant, but the request was denied by the General Manager. Mr. Hallows then notified the claimant by certified U. S. Mail dated November 26, 1986 that his request for a leave of absence had been denied by the General Manager.

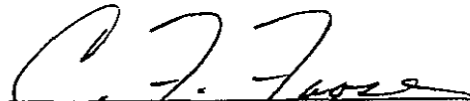
Under the circumstances existing herein, there is no justification to set the discipline aside.

AWARD: Claim denied.

  
Preston J. Moore, Chairman

*Dated at Chicago, Illinois  
April 7, 1988*

  
Carrier Member

  
Union Member