

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. Claimant Kovacsics advised of termination of seniority and employment for being absent without authority for more than five consecutive work days beginning October 1, 1988. Formal investigation conducted on January 10, 1989 resulted in removal from service for claimant's responsibility in the above.

2. Claim for reinstatement of Claim Kovacsics with seniority, vacation, all rights unimpaired and with pay for all wages lost as a result of the discipline being extreme, unwarranted, unjustified and unsupported by any of Carrier's rules.

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 charged with being absent without proper authority commencing October 1, 1988 while employed as a trackman on the Arizona Division. An investigation was held on December 9, 1988. The claimant was found guilty of being absent without proper authority and was dismissed from the service of the Carrier.

By letter dated October 10, 1988 the claimant was advised that his seniority and employment on the Arizona Division of the Santa Fe Railroad had been terminated because he had been absent from work without proper authority commencing October 1, 1988.

The claimant was advised that he could request an investigation. By letter dated October 13, 1988 the claimant did request an investigation. The claimant was notified to attend a formal investigation in Winslow, Arizona on November 10, 1988. The claimant requested a postponement, and the investigation was postponed until December 9, 1988.

The claimant testified that the last day he performed service was March 31, 1987. He stated that he did receive a letter dated May 11, 1988 from Santa Fe Assistant Counselor J. L. Harrell advising him that as of June 1, 1988 it would be necessary for him to arrange a medical leave through his private physician.

The claimant stated he received a copy of that letter. Claimant also stated that he received a letter dated June 2, 1988 from Mr.

Dixon confirming Mr. Harrell's letter. The claimant stated that on June 4, 1988 he sent a letter to Mr. Dixon, along with some doctor's statements stating he would be able to return to work on October 1, 1988. The claimant also stated he sent an attachment with the letter from Dr. Nolte which stated that he should be well enough to return to work on October 1, 1988.

The claimant testified he did not return to work on October 1, 1988. The claimant also stated that he did not provide Santa Fe with a doctor's statement to request an extension of his leave of absence before October 1, 1988. He also stated that he did not request authority from any Santa Fe supervisor prior to October 1, 1988 to be absent. He stated he did not have authority from the railroad to be absent.

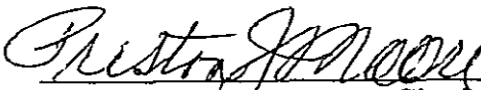
The claimant testified that he picked up the letter dated October 10, 1988 which advised he was absent without authority and could request an investigation. The claimant testified he had had previous letters which advised him that each time his leave of absence ended he must do certain things. On that basis the claimant stated he believed he had the same right after he received the last letter.

The claimant admitted that in one letter he was advised: "If the appropriate doctor's statement is not received prior to the expiration of the next term of excused absence, disciplinary action will follow."

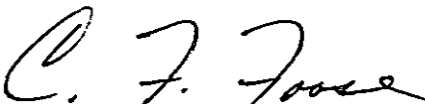
T.E. Williams, Administrative Coordinator, testified that she had reviewed the claimant's records, and his leave of absence expired on October 1, 1988 and he did not report for work on that date.

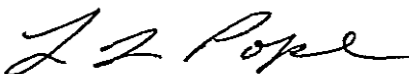
The Board has reviewed all the testimony of record and finds there is no justification to set the discipline aside.

AWARD: Claim denied.


Preston J. Moore, Chairman

Dated at Chicago, Illinois
August 22, 1989


Union Member


Carrier Member