

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. Pursuant certified letter dated November 28, 1988, claimant Sedillo advised of termination of seniority and employment for being absent without authority for more than five consecutive work days beginning November 18, 1988. Formal investigation held on December 28, 1988 resulting in claimant's removal from service for being absent without proper authority from November 17 through November 28, 1988.

2. Claim for reinstatement to claimant's former position with seniority, vacation, and all benefit rights restored and compensated for all wage loss until made whole beginning December 26, 1988 account discipline issued 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 a Group 7, Class 1 Machine Operator. The claimant had been terminated and reinstated by a Public Law Board.

The Carrier notified the claimant by certified letter dated October 4, 1988 that he was being reinstated and had thirty days to take and pass the necessary physical examination and report for duty. The claimant complied with those directions.

On November 3, 1988 the claimant was advised that he had passed the required physical and had fourteen days to report for duty. The claimant requested a leave of absence which was denied. The claimant did not mark up by November 28, 1988, and he was then sent another letter advising him he had been deleted from the seniority roster, and he had twenty days in which to request a formal investigation.

The claimant requested a formal investigation by letter dated December 5, 1988. A formal investigation was held on December 28, 1988. The claimant attended without a representative. The claimant waived his right to a representative.

The claimant testified he received a letter notifying him that he had fourteen or fifteen days to report, and the Maintenance Clerk

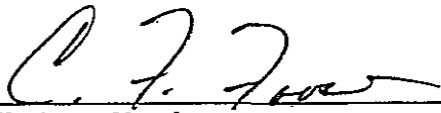
in Albuquerque gave him a list of places where he could report. He testified that at that time he was going to school and had started a job and was unable to get a leave of absence, so he just went ahead and let the time expire.

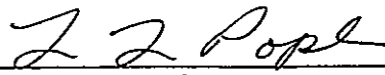
Under the circumstances there is no justification to set the discipline aside.

AWARD: Claim denied.

  
Preston J. Moore, Chairman

*Dated at Chicago, Illinois  
August 22, 1989*

  
Union Member

  
Carrier Member