

PUBLIC LAW BOARD NO. 1582

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

STATEMENT OF CLAIM:

1. That the Carrier's decision to remove Illinois Division Welder T. J. Carpenter from service was unjust.
2. That the Carrier now reinstate Claimant Carpenter with seniority, vacation, all benefit rights unimpaired and pay for all wage loss as a result of investigation held 1:30 p.m. July 13, 1989 continuing forward and/or otherwise made whole, because the Carrier did not introduce substantial, creditable evidence that proved that the Claimant violated the rules enumerated in their decision, and even if Claimant violated the rules enumerated in the decision, permanent removal from service is extreme and harsh discipline under the circumstances.

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 an investigation in Chicago, Illinois on June 12, 1989. The investigation was postponed until July 13, 1989. The claimant was charged with possible violation of Rule 1004 of Safety and General Rules for all Employees, Form 2629 Standard, concerning his alleged absence from duty without an approved leave of absence from April 4, 1988 and continuous subsequent dates.

Pursuant to the investigation the claimant was found guilty and was dismissed from the service of the Carrier.

The Board has studied the transcript of record and finds that the evidence establishes the claimant was absent on April 4, 5, 6, 7, 10, 11, 12, 13 and 14. During that period of time the claimant did not contact the Carrier.

The Carrier attempted to reach the claimant at his home but did not receive an answer. The Carrier also attempted to reach the claimant at his family's home but did not receive an answer there either.

The evidence indicates the claimant did not advise the Carrier he would be absent nor did he have any approved leave of absence. The claimant had been on leave of absence and had returned to work on April 3, 1989.

The claimant admitted he did not work on the days in question. The claimant stated he did not know why he didn't contact someone regarding a leave of absence. The claimant testified he had no reason why he was not at work on those dates.

The Board has reviewed all the evidence submitted and finds there is no justification to set the decision of the Carrier aside. The claimant has a poor discipline record in that he had been absent without permission on several occasions previously.

AWARD: Claim denied.

Preston J. Moore
Preston J. Moore, Chairman

Dated at Chicago, Illinois
September 12, 1989

C. J. Fosse
Union Member

L. J. Pope
Carrier Member