

PUBLIC LAW BOARD NO. 1582

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

STATEMENT OF CLAIM: Carrier's decision to remove Illinois Division Trackman R. J. Crump from service effective July 27, 1989 was unwarranted and unjust.

Accordingly, Carrier should now be required to reinstate the claimant to service with his seniority rights unimpaired and compensate him for all wages lost beginning July 27, 1989.

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 by letter dated August 8, 1989 that he was being terminated for his being absent without proper authority on July 27, 28, 31, August 1, 2, 3, 4, and 7, 1989 and not being on an authorized leave of absence, per Letter of Understanding dated July 13, 1976.

The claimant requested an investigation by letter dated August 15, 1989. The claimant was then notified to attend an investigation on September 8, 1989 in Kansas City, Kansas. The investigation was postponed until September 14, 1989.

R. J. Cruces, Section Foreman at Ottawa, testified he was Section Foreman at Ottawa, Kansas from July 29, 1989 until August 7, 1989 and the claimant was assigned to his Section during that time period. He testified his time book indicated the claimant was absent July 27, 28 and 31 and did not call in. He also stated the book further indicated the claimant was absent without permission on August 1, 2, 3, 4, 7, 8, 9, 10, 11, 14 and 15. Foreman Cruces testified he had a telephone at the meeting place where claimant could have reached him.

Terry D. Smutzer, Roadmaster, Ottawa Subdivision, testified the claimant was assigned to his section at Ottawa from July 27 through August 7, 1989. He stated the claimant did not have authority to be absent from work on those dates.

Roadmaster Smutzer further testified that he had instructed his gangs to contact their foreman and/or track supervisor if they were going to be absent from work. He further stated he personally had talked to the claimant about the procedure to be used in the event he was going to be absent. He also stated he had given the claimant his phone number previously to use if he was going to be absent.

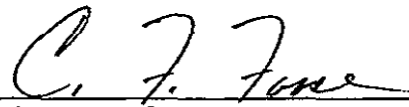
The claimant testified he had the phone number for Mr. Cruces. The claimant testified the only reason for his absence was that he had family problems, and a car wreck he was in in May where he had hurt his back and was seeing a chiropractor at the time. He stated his foot hurt some of the days, and he wasn't able to walk to a telephone. He stated the telephone was approximately two blocks away.

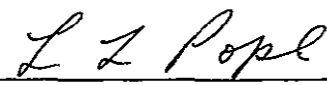
After reviewing all of the evidence the Board finds there is no justification for setting the decision of the Carrier aside.

AWARD: Claim denied.

*Dated at Chicago, Illinois
March 26, 1990*


Preston J. Moore, Chairman


Union Member


Carrier Member