

PUBLIC LAW BOARD NO. 2774

Award No. 122

Case No. 122

PARTIES  
TO  
DISPUTE

Brotherhood of Maintenance of Way Employees  
and  
The Atchison, Topeka and Santa Fe Railway Company

STATEMENT  
OF CLAIM

- "1. That the dismissal of Mr. D. L. Henderson from the service of the Carrier was based on unproven charges and was unjust, capricious, and in abuse of discretion.
2. That claimant now be reinstated to his former position with the Carrier with compensation for all wage loss suffered and with seniority and all other rights restored unimpaired."

FINDINGS

Upon the whole record, after hearing, the Board finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended, and that this Board is duly constituted under Public Law 89-456 and has jurisdiction of the parties and the subject matter.

Claimant herein had been dismissed previously by Carrier on November 7, 1980, for excessive demerits. That dismissal was dealt with by this Board in its Award No. 39. In that decision, this Board stated that claimant was being returned to service and given one last opportunity to return to work and maintain a reasonable attendance record. Furthermore, when he returned to work, his record stood with 45 demerits at the time of his return. His first date of service following Award No. 39 was on August 4, 1983. Following investigation, Carrier found that claimant had not maintained a reasonable work record from August 4 to September 30, 1983, and assessed him twenty demerits for this reason. As a result of these twenty demerits, his personal record stood at 65 demerits and he was terminated.

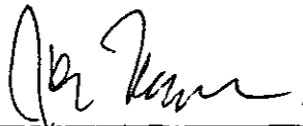
The record of the investigation reveals that from August 4 to September

23, 1983, claimant was absent from work on twelve different days. His reasons for being absent varied from being sick, to having car trouble, to attending court, to giving no reason whatever and to simply being absent without leave on two occasions. He was in fact absent from duty for approximately one-third of the time during the period after his return until September 23.

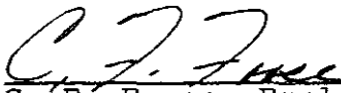
The crux of this dispute is whether, indeed, the record created by the claimant herein constituted the maintenance of a reasonable attendance record during the period in question. The Board is of the opinion that the absenteeism record of the claimant during the relatively short period of time can hardly be considered to be adequate. In fact, it was atrocious. Under the circumstances, it is clear that Carrier was eminently justified in awarding the demerits since claimant was aware that he had problems and did nothing to apparently correct the problems which had gone on for a long period of time. There is no merit to the contention raised by claimant in this instance and the decision was a correct one.

AWARD

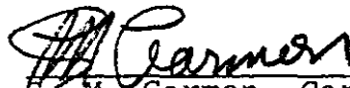
Claim denied.



I. M. Lieberman, Neutral-Chairman



C. F. Foose, Employee Member



C. M. Garmon, Carrier Member

Chicago, IL

December 17, 1984