

PUBLIC LAW BOARD NO. 2774

Award No. 128
Case No. 128

PARTIES
TO
DISPUTE

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

STATEMENT
OF CLAIM

- "1. That the Carrier violated the provisions of the current agreement when it dismissed Trackman R. L. Fisher from its service alleging an over-accumulation of demerits.
2. Mr. Fisher be reinstated to the service of the Carrier with seniority and all other rights restored unimpaired and with compensation for all wage loss suffered."

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 had been employed by Carrier since 1972. On October 11, 1983, he was informed by letter that he had waived his rights to a formal investigation on September 30, 1983, and accepted twenty demerits at that time for being absent without permission. Carrier told him that he had thus accumulated a total of 125 demerits with 30 demerits credit for a perfect record, resulting in a total of 95 demerits currently assessed against him. For this reason, and under the demerit program, he was terminated effective the close of work October 7, 1983.

There is no question about the fact that claimant accumulated 125 demerits over his years of service almost all of which were assessed for his being absent from duty without permission. Furthermore, it is evident that he was notified on August 23, 1983, that his record stood charged with a total of 55 demerits. Thus, when he waived investigation in September, he knew that he would be over the maximum permitted and was subject to dismissal. Under the Brown System of discipline, there is no doubt but that Carrier has the right to dismiss employees who exceed sixty demerits. In this instance, claimant's status was clearly within that parameter and there is no doubt that his record was unacceptable

from Carrier's point of view. There is no merit to the claim and it must be denied.

AWARD

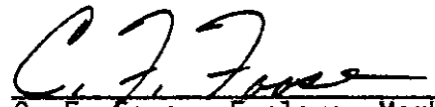
Claim denied.



I. M. Lieberman, Neutral-Chairman



G. M. Garmon, Carrier Member



C. F. Foote, Employee Member

Chicago, Illinois
April 30, 1985