

PUBLIC LAW BOARD NO. 2774

Award No. 153

Case No. 153

PARTIES Brotherhood of Maintenance of Way Employees
TO DISPUTE:

and

Atchison, Topeka & Santa Fe Railway Company

STATEMENT
OF CLAIM

- "1. That the Carrier's decision to dismiss Trackman R.W. Campbell without first according a fair and impartial investigation was in violation of the Agreement, unduly harsh, and in abuse of discretion.
2. The Carrier will now be required to reinstate Claimant Campbell to his former position with seniority and all other rights restored, unimpaired, and compensate him 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 was employed by Carrier as a Trackman on August 20, 1984. On January 24, 1985 and thereafter he was absent and had no authority for that absence. As a result of this action he was notified by certified letter by Carrier (letter dated February 5, 1985) of the termination of his seniority and employment pursuant to the Letter of Understanding dated July 13, 1976. The Claimant

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appealed for an investigation which was held on February 25, 1985. Following the investigation, Carrier upheld its prior determination to terminate him.

The Petitioner insists that the Claimant, a short-term employee, was not too familiar with Carrier's rules and was ill, causing his absence. Furthermore, Claimant insists that he attempted to call the Roadmaster but without success during his absence. Since Claimant was incapacitated, and unable to work, the Organization believes that he should be reinstated and that he should not have been terminated.

Carrier notes that Claimant during his short tenure had been disciplined twice for being absent without authority, in addition to which in this instance, at the hearing he freely admitted his absences and indicated that he had been ill. But the evidence set forth revealed that he did not seek a doctor's attention until after the letter of termination was received. The Carrier believes that it acted appropriately in deciding to terminate Claimant in this case.

As the Board views it, Carrier accorded Claimant an investigation at his request and properly found him guilty of the violations

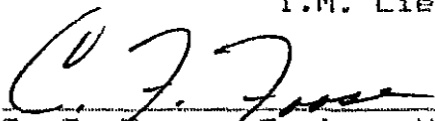
alleged. He was clearly absent without authority for a period beginning January 24 up to the time that he was notified that he was terminated without any contact whatever being made to Carrier. His rationale for the absence and his short tenure do not mitigate that circumstance. Carrier's decision was appropriate. The claim must be denied.

AWARD

Claim denied.



I.M. Lieberman, Neutral Member



C. F. Foote, Employee Member



G.M. Garmon, Carrier Member

Chicago, Illinois

January 21, 1988