

PUBLIC LAW BOARD NO. 2774

Award No. 176
Case No. 176

PARTIES Brotherhood of Maintenance of Way Employees
TO and
DISPUTE: Atchison Topeka & Santa Fe Railway Company

STATEMENT "1. That the Carrier's decision to remove Welder
OF CLAIM: W. A. Suddeth from service was harsh and
unjust.
2. That the Claimant shall be returned to
service with vacation, seniority and all
other rights unimpaired and that he will
be made whole for all time lost."

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.

The record indicates that Claimant herein was charged with violating certain Carrier rules for claiming time for November 13, 1986 when no service was performed by him and also for failing to protect his assignment on that date. Following a hearing at which the entire matter was reviewed and he admitted

to not having worked on the date in question but indicated that his putting down time for work that day was a mistake. Claimant was found guilty and dismissed from service. This circumstance triggered Petitioner's appeal of the dismissal.

This case is a companion case to that handled by this Board in Award No. 175 involving the same Claimant, with indeed an investigation on the same day as that herein. In view of the Board's findings in Case No. 175 (Award No. 175), the determination in this case becomes moot, since Claimant has already dismissed for excessive accumulation of demerits. For that reason, the Claim must be dismissed. That dismissal does not involve any stigma whatever with respect to Claimant's alleged violations on November 13, 1986.

AWARD

Claim dismissed.



I. M. Lieberman, Neutral-Chairman



C. F. Foose, Employee Member



G. M. Garmon, Carrier Member

Chicago, Illinois
October 11, 1988