

PUBLIC LAW BOARD NO. 2774

Award No. 35
Case No. 44

PARTIES
TO
DISPUTE

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

STATEMENT
OF CLAIM

- "1. That the dismissal of Illinois Division Miscellaneous Machine Operator R.D. Harrelson was unjust.
2. That Claimant Harrelson be reinstated to service with seniority, vacation, all benefit rights unimpaired, pay for wage loss and/or otherwise made whole."

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.

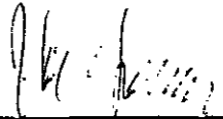
Claimant herein, who had seniority from July 29, 1968, was dismissed following a formal investigation on February 13, 1981. His dismissal was based on the charge that he had claimed time and compensation for service not performed on December 4, 1980. Approximately two months later, on April 6, 1981, Claimant returned to service by the Superintendent's decision on a leniency basis. Thus, the claim herein boils down to a claim for compensation for the time out of service from February 13 to April 6, 1981.

An examination of the record of this matter indicates that the evidence established that Claimant did not perform service on December 4 and was absent without authority. As a further element in this dispute, Claimant signed a waiver acknowledging the fact that he was not on duty on December 4 and also that he had submitted a time sheet for compensation for that date when he was aware that he was not entitled to compensation for that date. There was significant evidence on the part of Carrier in support of its decision that Claimant was guilty of the charges. Thus, Carrier's conclusion to dis-

cipline Claimant by dismissal was warranted. In view of the circumstances involved herein and the fact that Claimant was indeed reinstated subsequently, the claim does not have merit.

AWARD

Claim denied.



I.M. Lieberman, Neutral-Chairman


S.E. Fleming, Employee Member
G.M. Garmon, Carrier Member

May 13, 1982
Chicago, IL