

PUBLIC LAW BOARD NO. 2774

Award No. 67
Case No. 104

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 agreement when on July 26, 1982, it assessed Trackman D. W. Cook's personal record with thirty (30) demerits causing an over-accumulation of demerits and dismissal of Mr. Cook. Said action being unduly harsh and in abuse of discretion.
2. That claimant now be reinstated to his former position with the Carrier with seniority and all other rights restored unimpaired and that he be compensated for all wage loss suffered and that the charges be stricken from his personal record."

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.

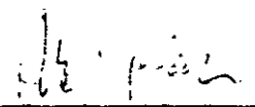
The record indicates that the claimant, Mr. Cook, had been assessed a total of 65 demerits as of July 18, 1982, and had received a total of 30 credits as of that date. After a three-day absence without authority, on July 21, 1982, claimant received a total of thirty demerits because of a three-day absence. He waived an investigation for those dates and accepted the demerits. Therefore, based on his past record, he had a total of 65 demerits accumulated as of July 23. The record indicates further that all of the demerits assessed against claimant since April of 1981 were as a result of absence from duty without authority.

There is no doubt with respect to the facts in this matter, as indicated heretofore. Under Carrier's well-established and long-standing disciplinary program, employees who accumulate 60 demerits are subject to dismissal. In this instance,


the claimant, after having waived an investigation with respect to the final assessment of demerits, accumulated 65 demerits. Thus, his record warranted dismissal under the Carrier's system. Particularly in view of the fact that claimant waived an investigation with respect to the final assessment of demerits, no further action may be contemplated by this Board in terms of the Carrier's conclusions. The system called for dismissal and such was the assessment of discipline.

AWARD

Claim denied.



I. M. Lieberman, Neutral-Chairman



C. F. Foote, Employee Member



G. M. Garmon, Carrier Member

Chicago, Illinois
July 23, 1984