

PUBLIC LAW BOARD NO. 3241

In the Matter of:)	National Mediation Board
)	Administrator
)	
BROTHERHOOD OF MAINTENANCE OF)	
WAY EMPLOYEES,)	
)	
Organization,)	
and)	
)	
UNION PACIFIC RAILROAD)	Case No. 36
COMPANY,)	Award No. 36
)	
Carrier.)	
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Hearing Date: June 4, 1992
Hearing Location: Sacramento, California
Date of Award: April 16, 1993

MEMBERS OF THE BOARD

Employees' Member: C. F. Foose
Carrier Member: D. A. Ring
Neutral Member: John B. LaRocco

ORGANIZATION'S STATEMENT OF THE CLAIM

1. That the Carrier's decision to dismiss Welder Helper M. H. Brossard was without just and sufficient cause and in violation of the current Agreement.
2. Claimant will now be restored to his former position with seniority and all other rights restored and compensated for all wage loss suffered and all charges be expunged from his record.

OPINION OF THE BOARD

This Board, after hearing upon the whole record and all evidence, finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act as amended; that this Board has jurisdiction over the parties and the subject matter of the dispute herein; that this Board is duly constituted by an Agreement dated July 23, 1982; and that all parties were given due notice of the hearing held on this matter.

Claimant entered the Carrier's service on September 5, 1989 as a Welder's Helper on Gang 7358. During the next five months, the Manager of Track Maintenance counseled Claimant at least once about being absent from work without proper authority.

On March 12, 1990, Claimant called the Carrier to lay-off work due to illness. Three days later, Claimant told the Manager of Track Maintenance that he wanted to resign from service because of personal problems. More specifically, Claimant stated that he expected to be incarcerated. Although the Manager sent Claimant a resignation form to sign, Claimant never returned the form. Between March 15, 1990 and July 20, 1990, Claimant was absent from work. During this period he neither contacted the Carrier nor received permission to be away from work.

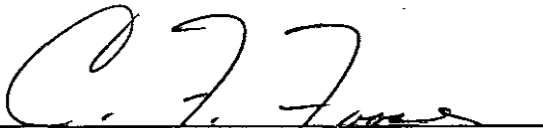
At an investigation held on July 27, 1990, the Carrier proffered substantial evidence that Claimant was absent without authority for the lengthy period running from March 15, 1990 through July 20, 1990. While he was given proper notice of the investigation, Claimant did not attend the July 27 hearing, and thus, the record does not contain any explanation for his persistent and excessive absenteeism. Indeed, Claimant's failure to attend the investigation evinces that he has little interest in maintaining his employment with the Carrier

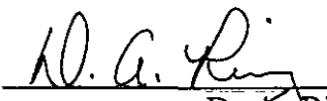
In view of his short length of service, this Board upholds the Carrier's decision to dismiss Claimant from service.

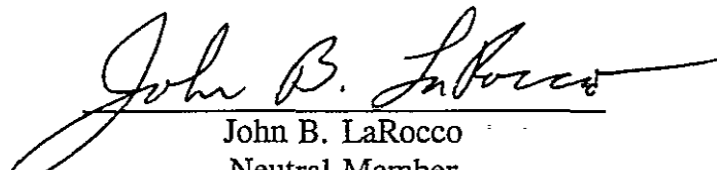
AWARD AND ORDER

Claim denied.

Dated: April 16, 1993


C. F. Foose
Employees' Member


D. A. Ring
Carrier Member


John B. LaRocco
Neutral Member