

PUBLIC LAW BOARD NO. 3308

Award No. 6
Case No. 6

PARTIES
TO
DISPUTE

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

STATEMENT
OF CLAIM

"Claim in behalf of former Plains Division trackman H. Shon, Jr. for reinstatement with seniority, vacation and all benefit rights unimpaired, account the claimant being unjustly removed from service for being absent without authority."

FINDINGS

Upon the whole record, the Board finds that the parties herein are Carrier and Employee 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, who had been absent without proper authority in excess of ten days, was notified by letter dated May 12, 1981, that:

"Please be advised that in connection with application of Rule 13 of Maintenance of Way Employees Agreement, your seniority and employment with the AT & SF Ry Co are hereby terminated account being absent without authority from May 1, 1981 to the present.


Also, please be advised that you have the right to request a formal investigation under the provisions of Article 5 of current Maintenance of Way Employees Agreement, provided you do so within twenty days of this notice."


The Organization, in submitting this claim, allege a violation of Rule 13 - Discipline.

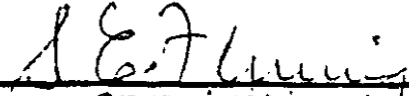
We have carefully reviewed the entire record and find no probative evidence that Claimant complied with the provisions of Letter of Understanding dated July 13, 1981. Under the provisions of said letter, Claimant had twenty days from May 12, 1981, to request a formal investigation if he felt that he had been unjustly dealt with. This he did not do. In fact, the record reveals that Claimant waited some seven months to pursue the matter. It was Claimant's sole responsibility to request a formal investigation within the prescribed time limit and by not doing so, admitted that he had been absent in excess of 10 days without proper authority. He, thereby, relinquished his seniority and employment under the provisions of the July 13, 1976 Letter of Understanding.

We are left no alternative other than to apply the Rule as written and find that Claimant forfeited his seniority and employment and Carrier did not violate the Agreement.

AWARD Claim denied.


Carrier Member


Clarence H. Herrington
Neutral Member


Organization Member

Dated at Chicago
February 22, 1983