

PUBLIC LAW BOARD NO. 4021

Award No. 30
Case No. 26

PARTIES
TO
DISPUTE

The Brotherhood of Maintenance of Way Employees

and

The Atchison, Topeka & Santa Fe Railway Company

STATEMENT
OF CLAIM

1. Carrier's decision to remove Albuquerque Division Track Foreman R. A. David from service effective February 8, 1986, was unjust.
2. Accordingly, Carrier should be required to reinstate Claimant David, with seniority rights unimpaired, and compensate him for all wages lost from February 8, 1986.

FINDINGS

This Board, upon the whole record and all of the evidence, finds that the parties herein are the Carrier and the Employees within the meaning of the Railway Labor Act, as amended; that this Board is duly constituted by Agreement dated November 26, 1985, and has jurisdiction over the parties and the subject matter.

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Claimant had six years of service with the Carrier, and was employed as a Track Foreman on the date giving rise to this claim. Claimant was charged with claiming pay on time sheets for several members of his gang, on dates when they did not work. An investigation was held on February 1, 1985, and Claimant was found guilty, and discharged from the service.

It is clear from the record, that Claimant filled out and approved time sheets for several employees, on dates when he knew they did not work. His admission of guilt can be found in the following exchange in the transcript:

- Q. Mr. David, I will show you these timesheets.
Are these your timesheets?
- A. Yes, sir.
- Q. You prepared them?
- A. Yes, I did.
- Q. You signed them?
- A. Yes, I did.
- Q. They are for the first half, December, 1984?
- A. Yes, sir.

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* * * *

Q. Would you look at Mr. Dean's timesheet and tell this Committee what it indicates for December 11?

A. It indicates that he had a full day's work.

Q. Eight hours?

A. Eight hours.

Q. Did Mr. Dean actually work on December 11th?

A. No, sir.

Claimant's guilt was not denied, and he offered no reasonable excuse for his actions. At page 5 of the transcript, the following exchange took place:

Q. But you knew they were absent?

A. I knew they were absent.

Q. Why did you pay them for eight hours pay when you knew they were absent?

A. I made the timesheets on that very last afternoon. I made one timesheet complete and then I just copied all the rest as if one.

The investigation was fairly conducted, although the Claimant elected to proceed without union representation. In this case,

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the Hearing Officer conducted himself with fairness and impartiality. The Claimant's last chance came at page 7, where the Hearing Officer asked:

Q. I am having difficulty understanding why you knew that they didn't work, why you paid them. Do you have a better explanation?

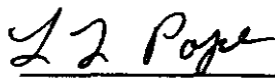
A. No, sir.

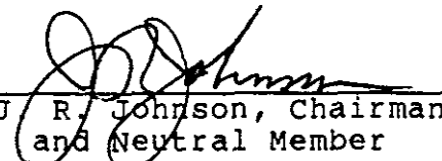
Claimant was guilty of the charges, and they were serious in nature. Indeed, there are few charges more serious than the willful falsification of timesheets. In this case, the Claimant's failure to offer any reasonable explanation left the Carrier no choice but to terminate his employment. We will deny the claim.

AWARD

Claim denied.


C. F. Foose, Employee Member


L. L. Pope, Carrier Member


J. R. Johnson, Chairman
and Neutral Member

Dated: 10/6/86