

Award No. 13
Case No. 12

PUBLIC LAW BOARD NO. 4244

PARTIES) ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY
TO) AND
DISPUTE) BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

STATEMENT OF CLAIM: Carrier's decision to remove former Albuquerque Division Trackman M.L. Law from service, effective September 12, 1986, was unjust.

Accordingly, Carrier should be required to reinstate Claimant Law to service with his seniority rights unimpaired and compensate him for all wages lost from September 12, 1986.

FINDINGS: This Public Law Board No. 4244 (the "Board"), upon the whole record and all the evidence, finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended. Further, this Board has jurisdiction over the parties and the subject matter involved.

In this dispute former Albuquerque Division Trackman M.L. Law (the "Claimant") was notified to attend a formal investigation on November 3, 1986, concerning his possible violation of Rule 13 of the Carrier's General Rules for the Guidance of Employees, Form 2626 Std., when he was allegedly absent from work without proper authority commencing September 12, 1986. The formal investigation was rescheduled and held on November 11, 1986. Pursuant to the investigation the Claimant was found guilty of violating Rule 13 and he was removed from service.

The evidence of record established that the Claimant was properly notified of the investigation and that the Claimant was absent without proper authority as charged. Further, the Claimant admitted at the investigation that he was absent without proper authority, due to the fact that he had been incarcerated.

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The Organization argued that the discipline assessed the Claimant was harsh, arbitrary and unjust. The Organization also argued that the Carrier failed to comply with Rule 13 and Appendix No. 11 of the Agreement.

The Board has read and studied all the evidence of record. The Board finds that the Carrier complied with all of the terms of the collective bargaining agreement between the parties. The Claimant requested an investigation pursuant to the provisions of Rule 13 and Appendix No. 11, and he offered no evidence or testimony that mitigated his unauthorized absence. Based on the record, there is no justification to set the discipline aside.

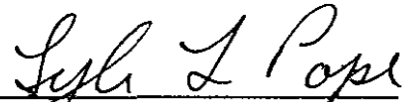
AWARD: Claim denied.



Alan J. Fisher, Chairman
and Neutral Member



Clarence F. Foose
Organization Member



Lyle L. Pope
Carrier Member

Dated: May 26, 1988
Chicago, Illinois