

Award No. 134
Case No. 139

PUBLIC LAW BOARD NO. 4244

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

STATEMENT OF CLAIM: Carrier's decision to remove former Western Region, Seniority District No. 1 Trackman D. P. Lasater from service, effective July 8, 1993, was unjust.

Accordingly, Carrier should be required to reinstate Claimant Lasater to service with his seniority rights unimpaired and compensate him for all wages lost from August 8, 1993.

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

The record shows that in a letter dated August 3, 1993, former Western Region Trackman D. P. Lasater (the "Claimant") was notified that his seniority and employment were terminated for being absent without authority for more than five consecutive work days beginning July 26, 1993. He was further advised that within twenty days of the date of the letter he could request a formal investigation under Rule 13 of the Agreement. The record further shows that the Claimant did not request a formal investigation.

After reviewing the evidence and testimony of record, the Board finds that the Claimant's removal from service was proper. The Board agrees with Award No. 27 of Public Law Board No. 4021 between the parties which held in pertinent part:

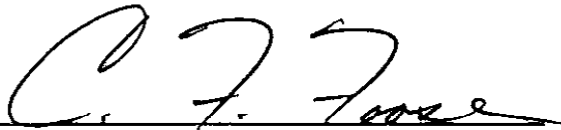
The Rule is clear, and the Claimant clearly was in violation of the provisions of the Letter of Understanding. The terms of the Agreement were followed by the Carrier, and the Claimant could have stayed his termination by requesting an investigation. Claimant's failure to request the investigation left the self-executing provisions of the Rule free to operate, and they operated to his disadvantage. There are no mitigating circumstances apparent in the record, so the Board must uphold Carrier's actions.

Further, the Board finds nothing in the record to support the Claimant's allegation that he requested an investigation within twenty days of the notice terminating his seniority.

AWARD: Claim denied.



Alan J. Fisher
Chairman and Neutral Member



C. F. Foose
Organization Member



Lyle L. Pope
Carrier Member

Dated: October 19, 1994
Schaumburg, Illinois