

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:** 1. That the Carrier's decision to suspend Southern Region, Trackman J. B. Rice from service for one-hundred and eighty (180) days was unjust.
2. That the Carrier now rescind their decision and pay for all wage loss as a result of Investigation held 1:00 p.m., June 13, 1994 continuing forward and/or otherwise made whole, because the Carrier did not introduce substantial, credible evidence that proved that the Claimant violated the rules enumerated in their decision, and even if Claimant violated the rules enumerated in the decision, suspended from service is extreme and harsh discipline under the circumstances.
3. That the Carrier violated the Agreement particularly but not limited to Rule 13 and Appendix 11, because the Carrier did not introduce substantial, credible evidence that proved the Claimant violated the rules enumerated in their decision.

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.

In this dispute, the Carrier advised Southern Region Trackman J. B. Rice (the "Claimant") in a letter dated April 14, 1994, that effective April 14, 1994, his seniority and employment were terminated because of his absence without proper authority since March 25, 1994. He was further advised that he could request an investigation within twenty days of the date of the letter, which he did.

In summary, the Claimant was notified to attend a formal investigation on June 13, 1994, concerning his alleged absence from duty without proper authority since March 25, 1994, in possible violation of Rules B and 1004 of the Carrier's Safety and

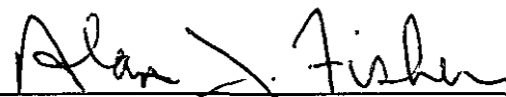
General Rules for All Employees. Pursuant to the investigation the Carrier determined that the Claimant violated the cited rules, and he was assessed 180 days actual suspension beginning June 13, 1994.


In summary, Roadmaster Lucky Watson testified at the formal investigation that on April 12, 1994, he received an electronic mail transmission advising him that the Claimant had been absent without proper authority for the period of March 25 through April 12, 1994. Foreman R. C. Rolan testified at the formal investigation that the Claimant was assigned to his track gang when the incident occurred. He further testified that the Claimant did not ask for permission to be absent and was absent without proper authority.

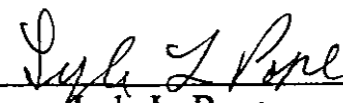
The Claimant testified that he informed Foreman F. Moffitt on March 24, 1994, that he had a doctor's appointment on March 25, 1994. Moffitt instructed him to report for work on March 25, but the Claimant elected not to do so. The Claimant admitted at the formal investigation that he did not have permission to be absent between March 25 and April 12, 1994.

The Board has reviewed the evidence and testimony of record. Based on its review the Board finds that the Claimant violated the Carrier's rules and the disciplined assessed the Claimant was not excessive under the circumstances of this case.

AWARD: Claim denied.


Alan J. Fisher
Chairman and Neutral Member


C. F. Foose
Organization Member


Lyle L. Pope
Carrier Member

Dated: December 15, 1994
Schaumburg, Illinois