

Award No. 158  
Case No. 160

**PUBLIC LAW BOARD NO. 4244**

**ATCHISON, TOPEKA AND SANTA FE RAILWAY CO.  
AND  
BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES**

**STATEMENT OF CLAIM:** Carrier's decision to remove former Western Region Employee A. R. Gomez from service, effective April 28, 1994, was unjust.

Accordingly, Carrier should be required to reinstate Claimant Gomez to service with his seniority rights unimpaired and compensate him for all wages lost from April 28, 1994.

**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 former Western Region Employee A. R. Gomez (the "Claimant") was notified in a letter dated February 11, 1994, that his seniority and employment were terminated because of his absence without proper authority since January 26, 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 March 23, 1994, concerning his alleged absence from duty without proper authority since January 26, 1994, in possible violation of Rules A, B, 1000, 1004 and 1007 of the Carrier's Safety and General Rules for All Employees. The investigation was postponed and held on April 7, 1994. As a result of the investigation, the Carrier determined that the Claimant violated the cited rules, and he was removed from service.

In summary, Roadmaster L. Truitt testified at the formal investigation that the Claimant did not have permission to be absent from work on January 26, 1994. The Claimant was then absent for the next four working days as well as the next two weeks. He further testified that the Claimant did not have his permission to be

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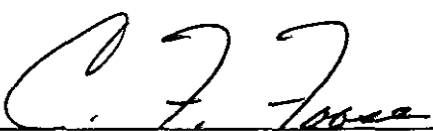
absent any of the days that he missed. Last, he testified that he had received a call from the Claimant's wife several weeks after January 26, and she informed him that the Claimant was in jail.

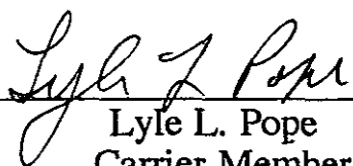
The Claimant admitted at the formal investigation that he was absent without permission as charged. He further admitted that he had been incarcerated during the period of time that he was absent.

There is no dispute that the Claimant violated the Carrier's rules. Based on a review of the record of the investigation and the Claimant's personal record, which showed that the Claimant was disciplined previously for being absent without authority, the Claimant's removal from service was appropriate.

**AWARD:** Claim denied.

  
Alan J. Fisher  
Chairman and Neutral Member

  
C. F. Foose  
Organization Member

  
Lyle L. Pope  
Carrier Member

Dated: August 5, 1995  
Schaumburg, Illinois