

Award No. 161
Case No. 163

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 Seniority District No. 1 Trackman W. Ordaz from service, effective June 24, 1994, was unjust.

Accordingly, Carrier should be required to reinstate Claimant Ordaz to service with his seniority rights unimpaired and compensate him for all wages lost from June 24, 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 Southern Region Trackman W. Ordaz (the "Claimant") was notified to attend a formal investigation on June 24, 1994, concerning his alleged misuse of the Carrier's Corporate Lodging card to obtain lodging at the Super 8 Motel at 777 West 6th Street, San Bernardino, California on various dates in February, March and April 1994, in possible violation of Rules A, B, 1007 and 1013 of the Carrier's Safety and General Rules for All Employees. The investigation was held on June 23, 1994. As a result of the investigation, the Carrier determined that the Claimant violated the cited rules, as well as Special Instructions Maintenance of Way Bulletin Instructions No. 16 dated February 1, 1994. Thus, because of his conduct and the damage done to the motel during his stay, he was removed from service.

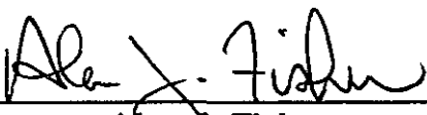
In summary, the Claimant was assigned to a surfacing gang working in and around San Bernardino. Given the location of the gang, it was permissible for the Claimant to use the Corporate Lodging card on days he performed active service. However, it was established at the formal investigation that the Claimant stayed at the Super 8 Motel everyday from February 18, 1994, until being evicted by the

Motel's management on June 5, 1994, for his failure to pay his phone bill and room damage. It was further established in the record that the Claimant charged his lodging expenses to the Carrier on his rest days and days he did not perform service. The Claimant's actions were in direct violation of the Carrier's rules and instructions as evidenced by the testimony of Roadmaster D. Gonzales and Foreman C. P. Llamas.

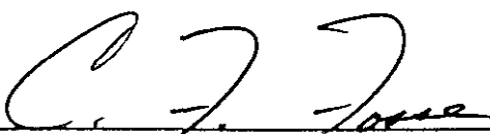
The record further shows that the Claimant offered no credible reason at the investigation for his violation of the Carrier's rules. Moreover, the Claimant was evasive when answering questions concerning his stay at the motel. For example, he testified that he could not remember whether he stayed at the motel on any of his rest days between February 26 and June 5, 1994.

It is clear from the evidence and testimony of record that the Claimant violated the Carrier's rules. Based on the record the Board finds no basis to set aside or modify the Carrier's decision to remove the Claimant from service. The discipline issued the Claimant was not excessive in view of the seriousness of the offense.

AWARD: Claim denied.



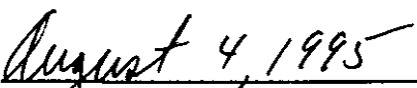
Alan J. Fisher
Chairman and Neutral Member



C. F. Foose
Organization Member



Lyle L. Pope
Carrier Member

Dated: 

Schaumburg, Illinois