

Award No. 18
Case No. 18

PUBLIC LAW BOARD NO. 4244

PARTIES)
TO)
DISPUTE)

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES
AND
ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY

STATEMENT OF CLAIM: 1. That the Carrier's decision to assess Claimant S.C. Welch thirty (30) demerits after investigation December 11, 1987 was unjust.

2. That the Carrier now expunge thirty (30) demerits from Claimant's record, reimbursing him for all wage loss and expenses incurred as a result of attending the investigation December 11, 1987 because a review of the investigation transcript reveals that substantial evidence was not introduced that indicates Claimant is guilty of violation of rules he was charged with in the Notice of Investigation.

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 Kansas City Division B & B Mechanic S.C. Welch (the "Claimant") was notified to attend a formal investigation on December 4, 1987 to develop the facts and place responsibility, if any, in connection with his violation of Rules 2, 13, 15 and 16 of the Carrier's General Rules for the Guidance of Employees, Form 2626 Std., when he was allegedly absent without proper authority on November 9 through 12, 1987. The investigation was rescheduled and held on December 11, 1987. Pursuant to the investigation the Claimant was found guilty of violating Rule 15 and he was assessed thirty (30) demerits.

The transcript of the investigation showed that on Monday, November 9, 1987, Track Foreman T. Winkleman called General B & B Foreman K.L. Clark and requested that the Claimant be marked off on account of personal business; the Claimant was scheduled to work Monday through Thursday, 7:00 a.m. to 5:30 p.m. Clark responded that he would not authorize the Claimant to be off under these circumstances. The record further showed that between November 9 and 12, 1987, Clark was not contacted by the Claimant nor did he receive any other communications regarding the Claimant's unauthorized absence.

The Claimant testified at the investigation that he was absent from work November 9 through 12, 1987. Moreover, he admitted that he did not have permission to be absent from work on these dates.

The Board has read and studied all the evidence of record. The Board finds that the Carrier complied with all the terms of the collective bargaining agreement between the parties. The Board also finds that there is no dispute that the Claimant was absent from work without proper authority, as charged. It is an established principle in the rail industry that an employee who is absent from work without authority will be subject to discipline. Accordingly, based on a review of the evidence of the investigation and the Claimant's past record, the discipline assessed the Claimant was appropriate.

AWARD: Claim denied.



Alan J. Fisher, Chairman
and Neutral Member



Clarence F. Foose
Organization Member



Lyle L. Pope
Carrier Member

Dated: August 10, 1988, Chicago, Illinois