

PUBLIC LAW BOARD NO. 4244

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

STATEMENT OF CLAIM:

1. That the Carrier's decision to remove Central Region District #2, E. F. Cook from service was unjust.
2. That the Carrier now reinstate Claimant Cook with seniority, vacation, all benefit rights unimpaired and pay for all wage loss as a result of Investigation held 2:00 P.M. October 4, 1995 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, removal 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, Central Region Trackman E. F. Cook was notified to attend a formal investigation on September 6, 1995, in Flagstaff, Arizona concerning his alleged absence without proper authority on August 4 and August 25, 1995; also his alleged failure to attend class in Winslow, Arizona, on August 4, 1995, as instructed; and his alleged claim for time to be paid for August 4, 1995, and his alleged leaving work on August 25, 1995, contrary to his foreman's instructions in violation of Rules 1.6 and 1.15, of the Carrier's Safety and General Rules for All Employees. The investigation was postponed and held on October 4, 1995. Pursuant to the investigation, the Carrier determined that the Claimant violated the cited rules, and he was issued a Level 6 discipline, dismissal from service.

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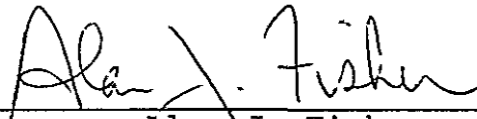
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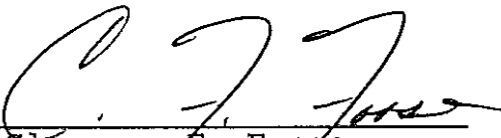
The record shows that the Claimant received proper notice of the investigation and the postponement. However, he did not attend the formal investigation on October 4, 1995.

It is clear from the record that the Claimant did not attend the scheduled class on August 4, as instructed, filed an improper claim for time to be paid for August 4, and has been absent without proper authority since August 25, 1995. Accordingly, the Board finds that the Claimant violated Rule 1.6 and 1.15, as determined by the Carrier.

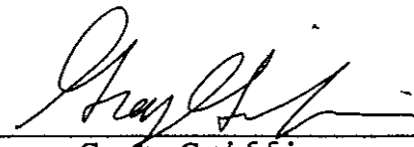
AWARD: Claim denied.



Alan J. Fisher
Chairman and Neutral Member



Clarence F. Foose
Organization Member



Greg Griffin
Carrier Member

Dated:

3/29/96

Fort Worth, Texas