

Award No. 182
Case No. 187

PUBLIC LAW BOARD NO. 4244

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

STATEMENT OF CLAIM: 1. That Carrier's decision to issue a Level 5 Suspension for System Steel Region Wilson Tachine from service for thirty (30) days was unjust.

2. That the Carrier now rescind their decision and expunge all discipline and transcripts as well as pay for all wage loss as a result of an Investigation held 9:00 A.M., January 19, 1996, 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 the Claimant violated the rules enumerated in the decision, suspension 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 Wilson Tachine (the "Claimant") was notified to attend a formal investigation on January 5, 1996, concerning his alleged assault on an employee of a Carrier provided lodging facility at Lemoore California on December 10, 1995, in possible violation of Rules 1.1, 1.6, and 1.9 of the Carrier's Safety and General Rules for All Employees. The investigation was postponed and held on January 19, 1996. As a result of the investigation, the Carrier determined that the Claimant violated the cited rules, and he was issued a Level 5 suspension of thirty days.

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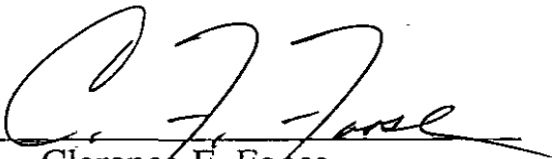
In summary, the record shows that the Claimant received proper notice of the investigation, but he did not attend the hearing. However, he was represented by Vice General Chairman Phillip C. Wolfersberger.

It is clear from the record that the Claimant was involved in an incident as alleged in the Notice of Investigation. After reviewing the testimony of record, it is the Board's decision that the discipline assessed the Claimant was appropriate.

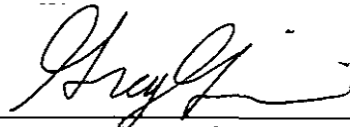
AWARD: Claim denied.



Alan J. Fisher
Chairman and Neutral Member



Clarence F. Foose
Organization Member



Greg Griffin
Carrier Member

Dated: 3/29/96
Fort Worth, Texas