

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 remove System Steel, E. J. Morris from service was unjust.

2. That the Carrier now reinstate Claimant Morris with seniority, vacation, all benefit rights unimpaired and pay for all wages lost as a result of an investigation held August 17, 1995, at 3:00 P.M., 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, 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 System Steel gang member E. J. Morris (the "Claimant") was absent without authority June 5, 6, 7, 8, 9 and 12, 1995. He was notified in a letter dated July 6, 1995, that his seniority and employment were terminated because of his absence without proper authority for more than five consecutive work days. The Claimant was also advised that he could request a formal investigation within twenty days of the date of the letter. The request was made by the Claimant through his designated representative from the Organization. The Carrier then notified him to attend a formal investigation on August 17, 1995, concerning his alleged absence without proper authority for more than five consecutive work days beginning June 5, 1995, in possible violation of Rules 1.15 and 1.16 of the Safety

4244

Award No. 185

Page No. 2

and General Rules for All Employees, Form 2629 standard, effective September 30, 1994, and as revised. As a result of the investigation, the Carrier determined that the Claimant violated the cited rules, and he was issued a Level 6 removal from service.

In summary, the record shows that the Claimant did not appear for the formal investigation. Hence, the Board finds that the discipline assessed the Claimant will not be set aside.


AWARD: Claim denied.



Alan J. Fisher  
Chairman and Neutral Member



Clarence F. Foose  
Organization Member



Greg Griffin  
Carrier Member

Dated: 7/31/96  
Fort Worth, Texas