

Award No. 193
Case No. 198

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 Central Region Welder E. W. Felton from service was unjust. The Carrier did not provide the Burden of Proof that E. W. Felton paid himself for time not worked, as reflected in the decision letter of April 4, 1996.

2. That the Carrier now reinstate Claimant Felton with seniority, vacation, all benefit rights unimpaired and pay for all wages lost as a result of an investigation held 9:00 A.M. on March 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 its 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 its 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 E. W. Felton (the "Claimant") was notified to attend a formal investigation on March 19, 1996, concerning his allegedly paying himself for time not worked on February 11, 1996, in violation of Rules 1.1, 1.3.1, 1.4, and 1.6 of the Carrier's General Code of Operating Rules. As a result of the investigation, the Carrier determined that the Claimant violated the cited rules, and he was removed from service.

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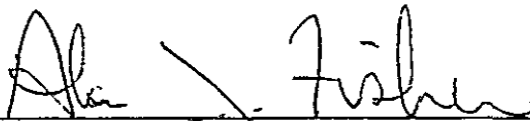
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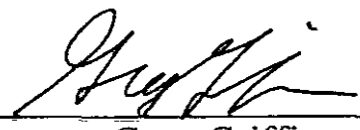
In summary, the Claimant made an incorrect payroll entry for himself for the day of February 11, 1996. The incorrect entry was detected by Roadmaster J. Wilken who then brought to the attention of Track Supervisor P. Dodson and the Claimant. When the Claimant was confronted with the discrepancy, he stated that he had made a mistake when entering the information into the computerized payroll system. He further testified that he had problems with making correct computer entries prior to this incident. The record further shows that the entry were detected prior to any payment to the Claimant. Further, after the mistake had been brought to the Claimant's attention, the Claimant corrected the incorrect entry with the Carrier's time keeping department.

Based on the information of record the Board finds that the Claimant made a mistake in entering the payroll information for February 11, 1996. The Claimant was never paid for time not worked, and the Carrier never established any intent by the Claimant to defraud the Carrier. Furthermore, the Claimant's testimony was credible concerning his mistake. Under the circumstances of this case, there was no basis for the discipline assessed the Claimant. See, Award No. 184 issued by the Board.

AWARD: Claim sustained.


Alan J. Fisher
Chairman and Neutral Member


Clarence F. Foote
Organization Member


Greg Griffin
Carrier Member

Dated: 9/25/96
Fort Worth, Texas