

Award No. 20
Case No. 20

PUBLIC LAW BOARD NO. 4244

PARTIES) BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
TO) AND
DISPUTE) ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY

STATEMENT OF CLAIM: Carrier's decision to remove former Los Angeles Division Trackman S.O. Valenzuela from service, effective October 5, 1987, was unjust.

Accordingly, Carrier should be required to reinstate Claimant Valenzuela to service with his seniority rights unimpaired and compensate him for all wages lost from October 5, 1987.

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 former Los Angeles Division Trackman S.O. Valenzuela (the "Claimant") was notified by a letter dated October 5, 1987 that pursuant to Appendix 11 of the current Maintenance of Way Agreement he was being terminated for his absence without proper authority since September 25, 1987. He was further notified that he had twenty days to request a formal investigation, if he so desired, under the provisions of Rule 13 of the Agreement. On October 6, 1987, the Claimant requested a formal investigation. The formal investigation was then scheduled for October 21, 1987. However, the Claimant did not attend the investigation.

The evidence of record showed that the Claimant was properly notified to attend the investigation. The testimony of record established that the Claimant worked on September 23 and 24, 1987, and that he was off with permission on September 25, 1987. The Claimant did not report for work on September 28, 1987, nor did he obtain permission to be absent from work after September 25, 1987, as charged.

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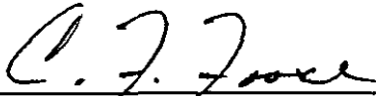
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The Organization argued before this Board that the discipline assessed the Claimant was excessive in proportion to the alleged rules violation. After reviewing the testimony and evidence of record, it is the Board's opinion that there is no justification to set the discipline aside.

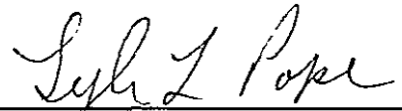
AWARD: Claim denied.



Alan J. Fisher, Chairman
and Neutral Member



Clarence F. Foose
Organization Member



Kyle L. Pope
Carrier Member

Dated: September 21, 1988, Chicago, Illinois