

PUBLIC LAW BOARD NO. 4244

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

STATEMENT OF CLAIM: Carrier's decision to remove former Arizona Division Trackman J. L. Gaddy from service, effective February 11, 1988, was unjust.

Accordingly, Carrier should be required to reinstate Claimant Gaddy to service with his seniority rights unimpaired and compensate him for all wages lost from February 11, 1988.

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 former Arizona Division Trackman J. L. Gaddy (the "Claimant") was notified by letter dated February 11, 1988, that his seniority and employment with the Carrier were being terminated due to his absence from work without proper authority since February 1, 1988. The letter further advised him that he could request a formal investigation within twenty days of the date of the letter.

The Claimant requested an investigation, and it was scheduled for March 14, 1988. The investigation was postponed and eventually held on May 2, 1988. As a result of the formal investigation the Claimant was found guilty of being absent from work without proper authority, and his removal from service was upheld.

Personnel Clerk L. D. Kovacsics testified that she received a wire from Section Foreman F. W. Fernow stating that the Claimant was absent without proper authority from February 1 through 8. Subsequent wires were received indicating that the Claimant was absent without permission on February 9 through 12. She further testified that she was contacted by the Claimant's daughter, Delda, on February 2 or 3, regarding his absence from work. She informed Delda that only Fernow or Roadmaster M. L. Lehnis could authorize the Claim-

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ant's absence from work. Kovacsics stated that in subsequent conversations with Fernow he stated that neither the Claimant nor Delda contacted him to request a leave of absence.

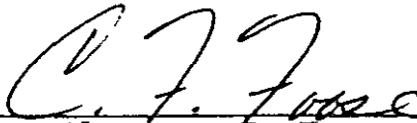
The Claimant testified that it was his understanding that his daughter contacted Fernow during his absence and she had obtained the necessary permission for him to be absent. He testified that he could not contact Fernow because he was incarcerated.

The Board has read and studied the evidence of record. It is clear from the record that the Claimant was absent from work without proper authority from February 1 through 12. It was the Claimant's responsibility to make sure that he or his daughter complied with the Carrier's requirements regarding an approved absence from work. Moreover, the Claimant has been disciplined on four previous occasions for being absent without proper authority. Hence, he should have been familiar with these requirements. Based on his past record, the Board finds that the Carrier acted properly in upholding the Claimant's termination.

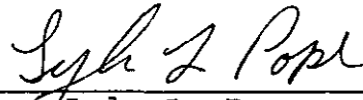
AWARD: Claim denied.



Alan J. Fisher, Chairman  
and Neutral Member



Clarence F. Foose  
Organization Member



Lyle L. Pope  
Carrier Member

Dated: April 12, 1989

Chicago, Illinois