

PUBLIC LAW BOARD NO. 4244

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

STATEMENT OF CLAIM: Carrier's decision to remove Kansas Division Trackman R. Ibarra from service was unjust.

Accordingly, Carrier should be required to reinstate Claimant Ibarra to service with his seniority rights unimpaired and compensate him for all wages lost from October 7, 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 Kansas Division Trackman R. Ibarra (the "Claimant") was notified to attend a formal investigation on October 7, 1988 concerning his alleged absence without proper authority on September 12, 14 and 28, 1988, and being late for work on September 19, 1988 in possible violation of Rule 1004 of the Carrier's Safety and General Rules for All Employees. Pursuant to the investigation the Claimant was found to be in violation of the cited rule, and he was removed from service.

The evidence of record showed that the Claimant was absent without proper authority on September 12, 14 and 28, 1988, and he was late for work on September 19, 1988. On September 12, the Claimant was required to report to his probation officer but he did not seek permission to be absent in advance of his scheduled meeting. On September 14, the Claimant did not report to his designated assembly point as instructed and was considered as being absent without authority. Although he reported to the work site that day, he was not allowed to work because of his failure to follow his foreman's instructions.

The record further showed that on September 19, the Claimant reported for work late because he overslept. The gang had already departed when he arrived at the assembly point and

4244

Award No. 45

Page No. 2

he had not been granted permission to be late. On September 28, the Claimant again was absent without authority. He testified at the investigation that he did not report for work because his ride did not pick him up. The Claimant did not obtain permission to be absent that day.

It is the Board's opinion that the Claimant received a fair and impartial investigation. It is also the Board's opinion, as evidenced by its previous awards, that unauthorized absence from duty is a serious offense which can result in removal from service. However, the Board finds that the discipline assessed the Claimant was excessive in view of the Claimant's close to twenty years of service. Thus, the Claimant shall be given a "last chance" opportunity to return to the Carrier's service. The Claimant shall be reinstated to service with his seniority rights unimpaired but without pay for time lost. Further, the Claimant's personal record will stand with 55 demerits. Last, the Board cautions the Claimant to comply with the Carrier's rules and all instructions issued to him.

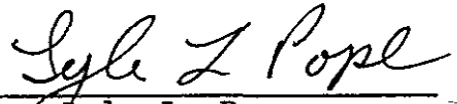
Award: Claim sustained as set forth in the Findings.



Alan J. Fisher, Chairman
and Neutral Member



Clarence F. Foose
Organization Member



Lyle L. Pope
Carrier Member

Dated: December 12, 1989
Chicago, Illinois