

PUBLIC LAW BOARD NO. 4823

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

STATEMENT OF CLAIM:

"Carrier's decision to remove former Texas Division Trackman J. L. Blackwell from service, effective October 2, 1989, was unjust.

Accordingly, Carrier should be required to reinstate Claimant Blackwell to service with his seniority rights unimpaired and compensate him for all wages lost from October 2, 1989. (Files 11-680-120-856/100-1301-899)"

FINDINGS:

This Public Law Board No. 4823 finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended, and that this Board has jurisdiction.

On September 18, 1989, Carrier's Division Manager wrote the claimant notifying him of formal investigation to be held concerning the claimant's allegedly having reported late to work on September 13, 1989, in possible violation of Rule 1004 of Carrier's Safety and General Rules.

Following the investigation, Carrier found Claimant responsible for reporting to work over one hour late on September 13, 1989, in violation of Rule 1004. He was assessed thirty (30) demerits for his responsibility in connection therewith.

The aforementioned assessment of thirty (30) demerits resulted in the claimant accumulating excessive demerits (a total of seventy). On October 2, 1989, he was removed from service for accumulation of excessive demerits, pursuant to Letter of Understanding dated April 16, 1979.

During the formal investigation the claimant produced a note stating -

"Airlane Villa Mag (manager?) forgot to wake up Mr. Blackwell at 6AM on Sept. 13, 1989."

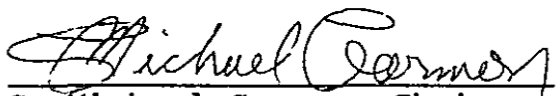
This note was signed by a person identified by Claimant as the manager of the motel where Claimant lodged the night of September 12, 1989.

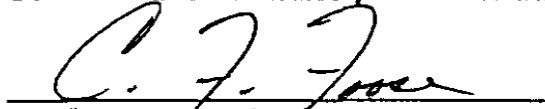
During handling of the claim under the prescribed appellate procedures, Carrier questioned the authenticity of the note and stated that on the morning of September 13, 1989, when Claimant was questioned as to his reason for reporting late for work, he could have presented a copy of his motel receipt to enable his supervisor to contact the motel and verify his story. He did not do so; in fact, Carrier contends that Claimant could not even recall the name of the motel where he had allegedly spent the previous night. Carrier also rightfully pointed out the fact that whether or not Claimant spent the night at a motel and/or was not given a wake-up call by the motel manager (which Claimant allegedly requested), is irrelevant. It is Claimant's responsibility to report for work on time.

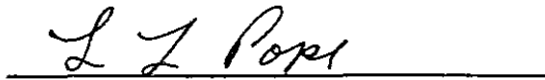
The record reflects Claimant's past discipline record is extremely poor. He had been assessed discipline on twenty-four (24) prior occasions, including one prior dismissal for accumulation of excessive demerits. All of his previous discipline (a total of 345 demerits) was assessed for either being AWOL or reporting late for work.

Under the facts and circumstances of this particular case, and particularly in view of the claimant's demonstrated propensity for either being AWOL or reporting late for work, the Board finds that the claimant was properly found to have violated Rule 1004. The assessment of thirty (30) demerits was entirely appropriate for his responsibility in connection therewith.

AWARD: Claim denied.


G. Michael Garmon, Chairman


Employee Member


Carrier Member

Dated at Chicago, IL:

