

PUBLIC LAW BOARD NO. 1582

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

STATEMENT OF CLAIM: Claim in behalf of former Trackman K. C. Walley, Middle Division, for reinstatement with seniority, vacation and all other rights unimpaired and compensation for wage loss beginning September 18, 1978 continuing forward until he is restored to service.

FINDINGS: This Public Law Board No. 1582 finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, and that this Board has jurisdiction.

In this dispute the record indicates the claimant had approximately twenty-one years of service at the time this dispute arose. Claimant had previously lost his seniority and was rehired, establishing a new seniority date of August 16, 1976.

A formal investigation was held on August 12, 1977, account claimant being absent from duty without permission, and the claimant was removed from service as a result of the investigation. In notifying the claimant of his removal from service, the Carrier's superintendent advised the claimant in part as follows:

"Your discharge from service does not necessarily mean you are not eligible for re-employment, however, your seniority date of August 16, 1976 has been severed."

The claimant was then re-employed as a trackman on July 20, 1978 and 54 days subsequent thereto on September 11, 1978, the Carrier disapproved the claimant's application thereby effectively severing his employment relationship on a permanent basis. It is apparently the Carrier's policy not to re-employ individuals whose applications for employment have been disapproved.

Ordinarily this Board will refrain from reversing the Carrier's timely disapproval of an application for employment. The Carrier's right in that regard is firmly established. However, in view of the claimant's long service and the facts involved in this particular case, it is the opinion of the Board that the Carrier made some errors in this case and that permanent dismissal is too severe.

On that basis the claimant should be reinstated to service with a seniority date of July 20, 1978 but without pay for time lost.

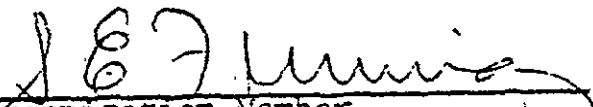
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AWARD: Claim sustained as per above.

ORDER: The Carrier is directed to comply with this award within
thirty days from the date of this award.



Preston J. Moore, Chairman



Organization Member



Carrier Member