

PUBLIC LAW BOARD NO. 1582

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

STATEMENT OF CLAIM: (1) That the Carrier violated the Agreement when as a result of an investigation conducted April 21, 1978 they discharged Trackman B. B. Begay, said dismissal being harsh, unjust and without sufficient cause.

(2) That Claimant B. B. Begay be reinstated to his former position with seniority, vacation and all other rights unimpaired, and additionally, that he be compensated for loss of earnings suffered account the Carrier's improper action.

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 claimant was charged with failing to properly report an alleged injury April 5, 1978 and failing to obey instructions of his Roadmaster and for being absent from duty without permission April 6, 1978. The claimant was employed as a Trackman on the Kingman Section at Kingman, Arizona.

Pursuant to the investigation the claimant was found responsible for failure to properly report an alleged injury and failure to obey instructions from the Roadmaster and being absent from duty without permission April 6, 1978 in violation of Rules 14, 15 and 31. The Organization filed this claim for reinstatement with seniority, vacation and all other rights unimpaired and compensation for wage loss beginning April 24, 1978.


The Board has examined the transcript of testimony and the briefs of the parties. The claimant had been employed by the Carrier for approximately six months when this event occurred. The claimant had previously worked for the Carrier in 1954.


On Page 5 of the transcript, the claimant testified that he did not tell his foreman that he was injured and that he violated the rules. The claimant further testified that he remembered Mr. Hanno instructing him to work with Mr. Fleming until time to see the doctor, and he replied that he would. The claimant also testified that he did not obey that instruction and that he left the job and went home.

By the claimant's own testimony, he was guilty of all three charges. Under the circumstances herein, there is no justification for the Board to overrule the decision of the Carrier.

AWARD: Claim denied.


Preston J. Moore, Chairman


Organization Member


Carrier Member

Dated April 7, 1980