

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:

1. That the Carrier violated Article V of the Agreement by unjustly continuing Los Angeles Terminal Division Trackman Lupe Gonzalez out of service beginning December 5, 1978 and not rendering decision after formal investigation held December 5, 1978.
2. That the Carrier now reinstate Mr. Gonzalez to service with seniority, vacation, all other benefit rights unimpaired and compensation for net wage loss beginning December 5, 1978 continuing forward.

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.

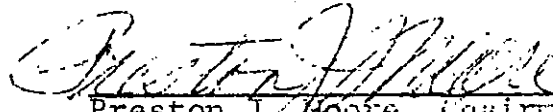
In this dispute the claimant was absent from duty commencing October 24, 1978, and on November 9, 1978 the claimant was written a certified letter notifying him that his seniority employment with the Carrier had been terminated due to his being absent from duty without proper authority, and that he might, if he desired, request a formal investigation within twenty days.

The claimant requested and was granted an investigation under Article V of the agreement. The investigation was held as scheduled at Los Angeles, California on December 12, 1978. The Organization contends that the claimant was confined to jail as a result of his failure to make child support payments.

After examining the transcript of record and all of the evidence at hand, there is no question but that the claimant was absent without authority. However, under all the circumstances herein it is the opinion of the Board that permanent discharge is too severe and finds the claimant should be reinstated with seniority and all other rights unimpaired but without pay for time lost.

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