

PUBLIC LAW BOARD NO. 1582

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

STATEMENT OF CLAIM: Claims on behalf of former Plains Division
Trackman L. R. Pinkert as follows:

(1) Claim for removal of letter of reprimand assessed his personal record as a result of formal investigation held in Lubbock, Texas, July 26, 1979. *

(2) Claim for reinstatement to his former position with seniority, vacation and all other rights unimpaired and compensation for wage loss commencing September 1, 1979, 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 claimant was notified to attend a formal investigation for his allegedly being absent without authority on June 12, 1979. Pursuant to the investigation the claimant was issued a reprimand after being found guilty.

On August 14, 1979 the claimant was notified to attend a formal investigation to determine the facts and place the responsibility for his allegedly being absent without authority August 7, 8, 10 and 11, 1979. Pursuant to the investigation the Carrier found the claimant guilty of violating Rule 15 of the General Rules for the Guidance of Employees, and the claimant was notified his record was assessed with 20 demerits.

Thereafter the claimant was advised that he had a balance of 60 demerits and that his seniority and employment were terminated as of August 31, 1979 due to an accumulation of excessive demerits.

In regard to the first charge which resulted in a reprimand, the claimant admitted he did not have authority to be absent. While a written reprimand limits the time in which an employee can work off demerits, the Carrier had sufficient facts regarding this incident to issue such a letter. Under the circumstances the Board has no justification to overrule the decision of the Carrier regarding the reprimand.

The Organization also points up that his foreman was absent the same day as the claimant, but the evidence also reveals that the foreman is no longer an employee either, since he was also discharged for excessive absenteeism.

In regard to the second claim, the claimant was asked:

Question: "Were you absent from work August 7, 8, 10 and 11, 1979?"

Answer: "Yes, Sir."

Question: "Did you have permission to be absent?"

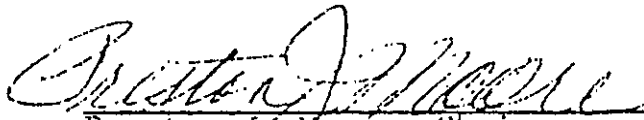
Answer: "No, Sir."

The claimant did testify that he had permission to be off one day, August 9, 1979.

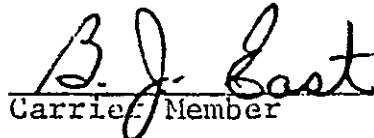
Evidence is sufficient to establish that the claimant was absent without authority, and 20 demerits for such absence is not unreasonable. Those 20 demerits left the claimant's record standing with 75 demerits, and the Board has no authority to reinstate the claimant.

AWARD: Claim No. 1 denied.

Claim No. 2 denied.


Preston J. Moore, Chairman


Organization Member


Carrier Member

Dated August 19, 1980