

PUBLIC LAW BOARD NO. 1562

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

STATEMENT OF CLAIM:

Claim (1). That the Atchison, Topeka and Santa Fe Railway Company violated the agreement entered into with the Brotherhood of Maintenance of Way Employees by disciplining Mr. Ortowski without first according him an investigation, denying Mr. Ortowski a representative of his choice, not informing Mr. Ortowski of his rights under the agreement and coercing a resignation from Mr. Ortowski under duress. These violations occurred September 17, 1979.

Claim (2). That the Carrier now reinstate Mr. Ortowski to service with seniority, vacation and all other benefit rights unimpaired and compensation for all wage loss beginning September 17, 1979 continuing forward until he is reinstated. Such compensation to accrue interest at six (6) percent per annum.

FINDINGS: This Public Law Board No. 1562 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 employed on an Extra Gang working near Wayne, Oklahoma September 17, 1979 when members of the Carrier's Special Service Department arrived and ordered the employees not to move as they were going to make a search for drugs, alcohol and firearms.

The claimant had driven to work on September 17 in his vehicle but the vehicle was parked off company property. A special agent began questioning the claimant and asked the claimant if he would sign a release so they could search his vehicle located off company property.

The claimant refused this request, and the agent allegedly advised the claimant that the most that could happen to him if they found anything was that the company could fire him for thirty days or so. The claimant again refused to sign the search consent, and the agent advised the claimant that if he did not sign, he would get the local authorities to search his vehicle.

The claimant still refused to sign and wanted to know his alternatives. Allegedly the agent advised the claimant that the only way he would not call the local authorities to search the car would be for the claimant to submit his resignation of employment with the Carrier.


The claimant signed his resignation, and the Organization has now appealed the claim, alleging that the claimant was coerced into signing the resignation and that the Carrier violated his civil rights. The Organization alleges that the claimant was entitled to the "Miranda" rights.


The evidence indicates that the special agents did not threaten the claimant but merely answered his questions and advised him the only other alternative and what the special agents would do.

Under the circumstances herein the Board has no authority. The claimant submitted his resignation, and the Board does not have the authority to set aside that resignation.

As a matter of passing, the Board might note that this is not a court of criminal law, and the claimant is not entitled to the "Miranda" rights, i.e., the notification that he has the right to remain silent and have the right to representation, and that any statement he might make can be used against him. That issue is not involved herein.

AWARD: Claim denied.


Preston J. Moore, Chairman


Organization Member


Carrier Member

August 19, 1980