

PUBLIC LAW BOARD NO. 1582

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

STATEMENT OF CLAIM: Claim in behalf of former Plains Division Trackman D. L. Williams for reinstatement to his former position with seniority, vacation, and all other rights unimpaired and compensation for wage loss beginning October 1, 1979.

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 employed by the Carrier September 18, 1978. On October 1, 1979 the claimant was dismissed from the service of the Carrier pursuant to an investigation wherein the claimant was found guilty of being absent without proper authority on September 10, 11 and 15, 1979.

The Board has carefully examined all of the evidence of record, including the transcript, and it is apparent that the claimant was certainly absent at least one day without authority. It is also noted that the claimant had just been returned to work from a 30 day suspension for a similar violation.

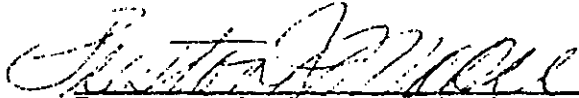
Of particular concern to the referee herein is the action and the conduct of the foreman, as well as the complaints filed against the foreman. If the foreman's conduct is substantiated as alleged, the Carrier certainly should make an investigation and correct this situation.

Except for the matter of the claimant being absent without authority just shortly after being returned to duty from a 30 day suspension for the same violation, some pay might be justified on the basis that the discipline was excessive. Certainly with the circumstances of the foreman and the testimony of the claimant's fellow employees, discharge is too severe.


Therefore, it is the opinion of the Board that 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

Dated August 19, 1980