

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 Trackman J. Tovar, Middle Division, for reinstatement to service with seniority, vacation and all other rights unimpaired and compensation for wage loss beginning September 11, 1979, continuing forward until he is reinstated.

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 dismissed from the service of the Carrier for an accumulation of excessive demerits.

The claimant was employed November 4, 1976, and at the time he was removed from service, his record stood charged with 30 demerits. The Organization points up that this total is in error since the claimant should have had credit for another ten demerits removed. The Board agrees with the contention of the Organization in this regard. However, this still leaves the claimant with a record of 70 demerits.

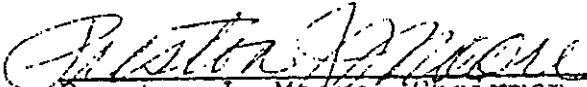
The claimant accepted 30 demerits on November 29, 1978 for being absent from duty without permission and on December 7, 1978 the claimant acknowledged in writing that his record stood charged with 50 demerits.


On August 18, 1979 the claimant again signed for 30 demerits for being absent from duty without permission on August 13, 14, 15, 16 and 17, 1979. At the time the claimant signed for the demerits, he was asked if he had any demerits on file, and he denied carrying any demerits.

The Organization has filed a brief contending that the claimant should be reinstated on the basis of a conversation between the roadmaster and the claimant. The Organization alleges that the roadmaster advised the claimant that his signing for the demerits would not result in the loss of his job.

This might have constituted a basis for reversing the decision if the claimant had not assured the roadmaster that he was not carrying any demerits. The Carrier has met the requirement of notifying the claimant, and an extension of that doctrine is not justified.

AWARD: Claim denied.

  
Preston J. Moore, Chairman

  
Organization Member

  
Carrier Member

Dated August 19, 1980