

PUBLIC LAW BOARD NO. 1582

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

STATEMENT OF CLAIM: Claim in behalf of former Eastern Division Trackman C. D. Dozier for reinstatement to service with seniority, vacation and all other rights unimpaired and with pay for all wage loss commencing November 9, 1979 and 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.

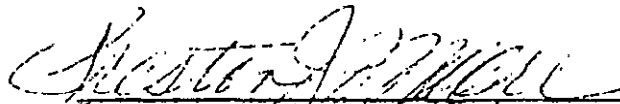
In this dispute the claimant was charged with violation of Rules 16 and 17 by provoking and participating in an altercation. The evidence indicates that on the morning of October 23, 1979 the claimant entered into an argument with another employee which ended up in a fight or "wrestling match." The Organization has filed an extensive brief in support of the claimant.

The Board has examined all of the evidence and testimony carefully, especially in view of the fact that the claimant has a previous record of discipline for quarrelsome behavior. However, in view of all the circumstances involved herein, it is the opinion of the Board that permanent dismissal under these circumstances is too severe.

The claimant shall be reinstated with seniority and all other rights unimpaired but without pay for time lost. The claimant should be warned that any further quarrelsome behavior on his part would justify permanent dismissal.

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