

PUBLIC LAW BOARD NO. 1582

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

STATEMENT OF CLAIM:

Claim No. 1. Claim in behalf of former Northern Division Foreman G. Ken Thurston for reinstatement to service with seniority, vacation and all other benefit rights unimpaired and compensation for all wage loss, including camper allowance as applicable, beginning October 19, 1979, continuing forward until claimant is reinstated to service; with such compensation to accrue interest at 6% per annum.

Claim No. 2. Claim in behalf of former Student Foreman D. I. Polson, Northern Division, for reinstatement to service with seniority, vacation and all other benefit rights unimpaired and compensation for all wage loss, including camper allowances, if applicable, beginning October 19, 1979, continuing forward until he is returned to service, with such compensation to accrue interest at six (6) per cent per annum.

Claim No. 3. Claim in behalf of former Trackman M. E. Slack, Northern Division, for reinstatement to service with seniority, vacation and all other benefit rights unimpaired and compensation for all wage loss beginning October 19, 1979, continuing forward until he is reinstated; with such compensation to accrue interest at six (6) per cent per annum.

Claim No. 4. Claim in behalf of former Trackman E. De LaGarza, Northern Division, for reinstatement to service with seniority, vacation and all other benefit rights unimpaired and compensation for all wage loss, including camper allowance, if applicable, beginning October 19, 1979, continuing forward until he is reinstated to service; with such compensation to accrue interest at six (6) per cent per annum.

Claim No. 5. Claim in behalf of former Trackman R. H. Smith, Northern Division, for reinstatement to service with seniority, vacation and all other benefit rights unimpaired and compensation for all wage loss beginning October 19, 1979, continuing forward until he is reinstated; with such compensation to accrue interest at six (6) per cent per annum.

Claim No. 6. Claim in behalf of former Trackman E. A. Banks, Northern Division, for reinstatement to service with seniority, vacation and all other benefit rights unimpaired and compensation for all wage loss, including camper allowance, if applicable, beginning October 19, 1979, continuing forward until he is returned to service; with such compensation to accrue interest at six (6) per cent per annum.

Claim No. 7. Claim in behalf of former Trackman G. A. Thurston, Northern Division, for reinstatement to service with seniority, vacation and all other benefit rights unimpaired and compensation for all wage loss beginning October 19, 1979, continuing forward until he is reinstated; with such compensation to accrue interest at six (6) per cent per annum.

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 Division Special Agent, Roadmaster, Assistant Division Special Agent, and three other Special Agents arrived at the work site of Extra Gang 71 on the morning of September 17, 1979. The members of the gang were searched for contraband, and several vehicles belonging to members of the gang were searched. The following property and/or evidence was confiscated from the employees involved:

- 1 - #357 Caliber Smith and Wesson Pistol, found in claimant Kenneth Thurston's personal vehicle.
- 1 - #308 Caliber Westernfield Rifle and Scope; found in claimant Kenneth Thurston's personal vehicle.
- 1 - #38 Caliber Schmidt Osthem Rhoen Pistol, found in claimant Smith's personal vehicle.
- 1 - Baggy of marijuana; found in hat inside claimant Kenneth Thurston's personal vehicle.
- 1 - Baggy of marijuana; found tied around the ankle of claimant M. E. Slack.
- 1 - Cracker Jack box containing marijuana; found in glove box of claimant De LaGarza's personal vehicle, but De LaGarza contended it belonged to claimant E. A. Banks.
- 2 - Medicine bottles containing Valium; prescribed to Ruth Thurston and claimant Kenneth Thurston and found in lunch pail inside claimant Kenneth Thurston's personal vehicle.

1 - Medicine bottle (labeled D. I. Polson) containing two yellow pills (later identified as Ionamin, containing phentermine, a controlled substance); found in front seat of claimant Polson's personal vehicle.

1 - Medicine bottle containing marijuana seeds and other pills (later identified as not controlled); found in brief case of claimant Kenneth Thurston.

1 - Small "penny" match box, containing two capsules (later identified as not controlled); found in personal vehicle of claimant George A. Thurston.

1 - Pint bottle of Bacardi Rum; found in personal vehicle of claimant Polson.

20 - Cans of Miller Beer, found in personal vehicle of claimant Polson.

1 - So-called "roach clip" (used for smoking marijuana cigarette butts); found in suit case of claimant De LaGarza.

1 - Package of cigarette papers; found on the person of claimant M. E. Slack.

1 - Package of cigarette papers; found on the person of claimant R. H. Smith.

1 - Brass marijuana pipe; found in the ash tray of claimant G. A. Thurston's personal vehicle.

1 - "Roach" (spent marijuana cigarette) found in the ash tray of claimant G. A. Thurston's personal vehicle.

Pursuant to the investigation the claimants were found guilty of a violation of Rules 1, 2, 6, 8, 14 and 16 of the General Rules for the Guidance of Employees and were discharged from the service of the Carrier for their responsibility in connection therewith. The Organization has filed this claim which was heard in Denver, Colorado on October 17, 1980.

The transcript contains 84 pages, and there were numerous exhibits introduced by the Carrier in support of their position. The Carrier found the claimants were responsible for the violation of the rules charged with and discharged all of the claimants from the service of the Carrier.

The Board has carefully studied all of the evidence and the testimony of record. The evidence is sufficient to establish that