

PUBLIC LAW BOARD NO. 1582

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

STATEMENT OF CLAIM: That the Carrier now reinstate Mr. Escalante to his former position with compensation for all losses in the wage differential between the student foreman's rate and trackman's rate commencing February 25, 1974.

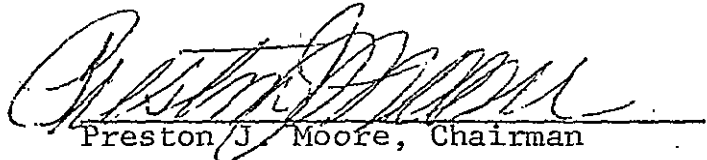
FINDINGS: This Public Law Board No. 1582 finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, and that this Board has jurisdiction.

In this dispute the claimant was employed as a student foreman. On February 25, 1974 he was demoted to a trackman. The Organization contends claimant should be reinstated to his position as student foreman and compensated for the difference in earnings suffered as a result of the Carrier's action. The Organization contends that the demotion was because the claimant had gained weight instead of losing weight and that such action should not be condoned without an investigation.

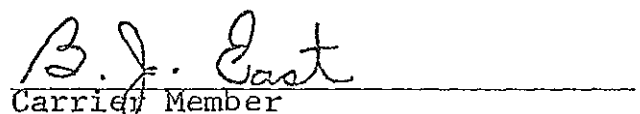
The Carrier contends that because of the claimant's obesity, he could not pass the physical examination for promotion to foreman. The Carrier takes the position that there is no class of "student foreman" listed in the Maintenance of Way Agreement. Student foremen are a group of employees who have been selected for training in preparation of promotion to foreman. (Group 3, Class 1)

The claimant's disqualification and/or removal from the student foreman program did not fall under the purview of Article 3, Section 3. The Carrier has the unilateral right to remove and/or select employees for the student foreman program. The Board finds no rule support for the claim.

AWARD: Claim denied.


Preston J. Moore, Chairman


Organization Member


Carrier Member

January 2, 1976