

PUBLIC LAW BOARD NO. 1582

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

STATEMENT OF CLAIM:

1. That the Carrier's decision to assess Claimant Hendrix record with twenty (20) demerits as result of the investigation held February 22, 1982 was unjust.
2. That the Carrier expunge twenty (20) demerits from Claimant Hendrix record, which resulted in his removal from service because he allegedly over accumulated sixty (60) demerits in violation Rule 31-H of the General Rules for the Guidance of Employees, 1978, and that he be reinstated with seniority, vacation, all benefit rights unimpaired and pay for wage loss beginning February 23, 1982 continuing forward and/or otherwise made whole because substantial evidence was not introduced into the transcript record that sustained the Carrier's position that Claimant Hendrix violated Rule 239, Safety Rules for the Santa Fe Employees; even if substantial evidence was introduced into the record sustaining the Carrier's position that Claimant Hendrix violated Rule 239, the assessment of twenty (20) demerits which resulted in Claimant Hendrix removal is excessive and harsh discipline.

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 found guilty of violating Safety Rule 239 and was assessed 20 demerits. This 20 demerits brought the claimant's record to 60 demerits, and under the Brown System of Discipline constituted cause for discharge.

The testimony of record establishes that the claimant was riding on Speed Swing AT 1374 on February 1, 1982. The evidence further establishes that no supervisor instructed the claimant to ride the machine. Rule 239 strictly forbids employees to ride such machines unless there is a seat provided for that purpose.


The evidence further establishes that the claimant attended a safety meeting on January 4 where the roadmaster instructed the employees that they were not to ride such machines. The claimant did so in violation of the rules, and as a result, the claimant was injured.

Under these circumstances the Board has no justification for setting aside the discipline which was assessed by the Carrier.

AWARD: Claim denied.



Preston J. Moore, Chairman



Organization Member



Carrier Member

Dated at Chicago, Illinois
April 23, 1982