

PUBLIC LAW BOARD NO. 1582

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

STATEMENT OF CLAIM:

1. That the Carrier's decision to permanently dismiss Southern Division Trackman A. L. Yarbough is unjust.
2. That the Carrier now reinstate Claim Yarbough to service with seniority, vacation, all benefit rights unimpaired and pay for all wage loss beginning February 26, 1982 continuing forward and/or otherwise made whole, because substantial evidence was not adduced at the investigation that sustains the Carrier's decision and even if substantial evidence was introduced the decision of the Carrier is harsh and excessive.

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 being involved in an altercation with another employee at approximately 12:40 p.m. on February 4, 1982 at West end of siding at Kountze, Texas.

Pursuant to the investigation the claimant was found guilty of violating General Rules 2, 14, 15, 16 and 17 and was dismissed from the service of the Carrier.

The Board has examined the transcript of record which contains 33 pages and has carefully considered all of the testimony therein. Under the evidence submitted and the testimony of the witnesses, it appears to the Board that permanent dismissal is harsh, arbitrary and unjust. For that reason the Carrier is directed to reinstate the claimant with seniority and all other rights unimpaired but without pay for time lost.

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 at Chicago, Illinois  
May 7, 1982