

PUBLIC LAW BOARD NO. 1582

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

STATEMENT OF CLAIM:

1. That the Carrier's decision to remove Southern Division Foreman R. A. Soliz as a result of formal investigation April 5, 1982 was unjust.
2. That the Carrier now reinstate claimant Soliz to his former position with seniority, vacation, all benefit rights unimpaired and pay for wage loss beginning April 5, 1982 continuing forward and/or otherwise made whole because a review of the transcript does not reveal that substantial evidence was introduced on record which indicated that claimant Soliz was guilty of violating Rule 16, General Rules for the Guidance of Employees, Form 2626 Std., and even if record contained substantial evidence indicating that claimant violated the Carrier's rules heretobefore quoted, the Carrier's decision to remove claimant 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 charged with leaving work approximately two and one-half hours early on February 26, 1982 and turning in time worked for this period, and for allegedly releasing Machine Operator L. E. Hurt and Trackman R. Soliz approximately two and one-half hours early and turning in time worked for this period on February 26, 1982.

A formal investigation was held, and pursuant thereto the claimant was dismissed from the service of the Carrier.

The Board has studied all of the testimony of record, including all of the testimony of the claimant. The allegations of the Organization are recognized. However, it appears that on March 5, 1982 the claimant signed a statement which appears on Page 11 of the transcript which in itself is sufficient for the Carrier to find that the claimant was guilty.

The acting assistant to the superintendent testified that claimant was a member of classes taught on timekeeping on several occasions, that he had been instructed in proper timekeeping procedures and

had been issued a copy of the brochure of instructions for foremen, including timekeeping, and the claimant was instructed by letter on several occasions regarding mistakes he had made which had to be corrected on timekeeping. He further testified that the claimant had been instructed that if he had any questions concerning timekeeping, he was to contact the Division Engineer's Office.

After a careful review of all the testimony of record, it is the opinion of the Board that there was justification for the removal of the claimant from service. However, in view of the claimant's long service with the Company (approximately 37 years) and relatively clean discipline record, the Board finds that the claimant should be reinstated to service with seniority, vacation and all other rights unimpaired but without pay for time lost; such reinstatement to be effective July 5, 1982.

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 28, 1982