

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 remove Southern Division Trackman T. Ray, Jr. from service was unjust.
2. That the Carrier now reinstate claimant with seniority, vacation, all benefit rights unimpaired and pay for all wage loss beginning June 7, 1982 continuing forward and/or otherwise made whole, because the Carrier did not introduce substantial evidence that proved that the claimant violated the rules enumerated in their decision, and even if claimant violated the rules enumerated in the decision, permanent removal from service is extreme and harsh discipline under the circumstances.

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 notified to attend a formal investigation at Silsbee, Texas on April 27, 1982. The claimant was charged with unlawfully carrying a weapon at approximately 1:00 a.m. on February 14, 1982 at Silsbee, Texas. Pursuant to the investigation, the claimant was discharged from the service of the Carrier.

The Union filed a claim in behalf of the claimant, and the matter is now before the Board for a final and binding decision.

The claimant was assigned to Gang No. 74 and had been employed by the Carrier for three years. In eight more days the claimant would have qualified as a machine operator.

The claimant admitted that he was carrying a knife but did not believe that this was illegal. The claimant had been apprehended by the police and pled guilty to carrying an illegal weapon.

The Carrier introduced evidence that the county court records indicate that the claimant had pled guilty to the charge of public intoxication and that an arrest warrant had been issued for his failure to pay the fine. The claimant denied that he pled guilty to the charge of public intoxication. A charge of possession of marijuana was dismissed.

FILED IN CASE NO. 192

APR 29 1982

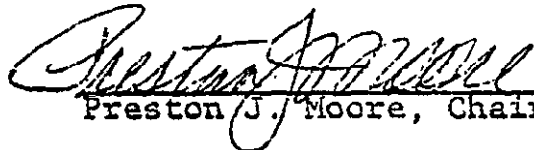
The claimant herein was charged with a violation of Rules 2 and 16. Rule 16 includes a provision that an employee must not be indifferent to duty, insubordinate, dishonest, immoral, quarrelsome or vicious, and that employees must not conduct themselves in a manner which will bring discredit on their fellow employees or subject the company to criticism or loss of good will.

The claimant's conduct certainly reflected poorly upon the Carrier, but there is no evidence that the newspaper article listed claimant as a Santa Fe employee.

Serious discipline is justified, but in the opinion of the referee the facts and evidence submitted do not offer sufficient evidence to justify permanent dismissal. Therefore the Board finds that the claimant should be reinstated 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