

PUBLIC LAW BOARD NO. 1582

PARTIES) THE 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 Plains Division Trackmen Clarence E. Hammons, Jr. and Jerris W. Carter from service was unjust.

2. That the Carrier now reinstate claimants with seniority, vacation, all benefit rights unimpaired and pay for all wage loss beginning July 22, 1982 continuing forward and/or otherwise made whole, because the Carrier did not introduce substantial evidence that proved that the claimants violated the rules enumerated in their decision, and even if claimants 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 claimants were charged with being intoxicated and in possession of alcoholic beverages and marijuana while on Company property at the Slaton Depot on July 3, 1982.

Special Agent L. D. Boucher testified that the claimants were placed under arrest at 3:18 a.m., and he was called at 3:25 a.m., and the claimants were arrested on Company property (railroad depot). He also testified that the claimants told him when he arrived at the police station on July 3 that they were at the Santa Fe Depot on railroad property when they were arrested.

Special Agent Boucher further testified that claimant Hammons pled guilty and was fined \$70.00 for public intoxication and \$45.00 for the possession of marijuana, and that claimant Carter pled guilty to public intoxication and was fined \$70.00.

All of the testimony and evidence has been carefully considered by the Board. There can be no question but that the claimants were guilty as charged. However, under the circumstances it is the opinion of the Board that permanent dismissal is too severe. It is the finding of the Board that the claimants should be reinstated

effective January 1, 1963 with seniority and all other rights
unimpaired but without pay for time lost.

AWARD: Claim sustained as per above.

Preston J. Moore, Chairman

J.E. Lanning

Organization Member

Dissenting

Carrier Member

CARRIER'S DISSENT TO AWARD NO. 198
OF PUBLIC LAW BOARD NO. 1582

The Carrier is in full agreement with the Chairman's statement "There can be no question but that the claimants were guilty as charged." However, having so concluded, the Carrier is at a complete loss to understand the rationale of the Chairman's statement that "permanent dismissal is too severe."

The cavalier treatment accorded this serious and flagrant violation (possession of alcoholic beverages and marijuana while on Company property) will, no doubt, be regarded by the claimants (and other employees who might be so inclined) as license to disregard the Carrier's rules prohibiting the possession of alcoholic beverages and marijuana on Company property.


Carrier Member of Public
Law Board No. 1582