

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 Trackman J. Villa 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 August 25, 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 charged with being absent without authority from Extra Gang 62 on August 6 and 11, 1982. A formal investigation was held in Lubbock, Texas on August 25, 1982. The claimant was found guilty of violating Rule 15 (AWOL) of the General Rules for the Guidance of Employees Form 2626 Standard.

The Organization contends that the notice of investigation was improper. However, the Board has examined the charge and finds no fault therein.

The Organization has also contended that the Carrier violated the agreement by removing the claimant from service prior to the investigation. The evidence indicates that the claimant was removed from service pending an investigation, and the Board finds no prohibition against such in the agreement between the parties.

The Board has examined the transcript of record and all of the testimony contained therein, and the evidence is sufficient to establish that the claimant was absent without authority. Thus serious discipline is justified.

The claimant is a short term employee, but under the circumstances it is the opinion of the Board that permanent discharge is too


severs. The Board therefore 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

DATED AT CHICAGO, ILLINOIS
NOVEMBER 12, 1982



Carrier Member