

PUBLIC LAW BOARD NO. 1582

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

STATEMENT OF CLAIM: Claim that former Trackman A. L. Neely be reinstated with seniority, vacation, all other benefit rights restored and compensate him for all wage loss and/or otherwise made whole beginning June 26, 1981 account unjustly removed from service for being insubordinate and indifferent to duty.

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 insubordination. The transcript contains 33 pages of testimony, including testimony of the foreman, two machine operators, seven fellow trackmen and the claimant. All of the testimony has been carefully studied.

The evidence is clear and convincing that the claimant was, in fact, insubordinate. Other trackmen testified that the claimant was within two or three feet of the foreman when he was given the orders at least three times, and instead of complying with these instructions, the claimant turned and walked toward the truck. The Board recognizes that the claimant contends he was walking toward the truck to get a spike mall. However fellow workers testified that the claimant could not help but see a spike mall was lying close by.

The claimant has a poor record and has been disciplined previously for indifference to duty, insubordination and failure to cooperate with a supervisor. Under the circumstances there is no justification for setting the discipline aside.

AWARD: Claim denied.

  
Preston J. Moore, Chairman

  
Organization Member

CHICAGO, ILLINOIS  
February 17, 1983

  
Carrier Member