

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 on behalf of Southern Division Trackman J. W. Vest, seniority date June 19, 1978, for removal of 20 demerits assessed his record as result of investigation June 24, 1983, and for reinstatement with seniority, vacation, all rights unimpaired and pay for time lost commencing July 1, 1983, continuing forward and/or otherwise made whole.

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 from duty without proper authority on May 31, June 3, June 13 and June 17, 1983. The claimant was assigned as Trackman on Extra Gang 74, located at Galveston, Texas. Pursuant to the investigation, the claimant was assessed 20 demerits for violation of Rules 2 and 15.

The Organization contends that the claimant requested permission to be off on the morning of May 31, 1983, to have his safety glasses repaired, and the Foreman instructed him that if he was not through by 11:00 a.m., not to report for work that day.

The Organization contends that the claimant attempted to report for work on June 3, 1983, but was then unable to locate the Foreman, and that car trouble prevented him from being on time.

The Organization contends that the absences from June 13 through June 17 were a result of a misunderstanding between the claimant and the Foreman. The Organization alleges that the claimant believed that he was supposed to take vacation that week.

The Carrier contends that the evidence of record establishes that the Foreman instructed the claimant to return to work by June 13. The Foreman and another employee testified that those were the instructions to the claimant. The Carrier finds the claimant guilty of being absent without authority and assessed him with 20 demerits. This placed him over the limit, and the Carrier terminated him under the Brown System of demerits.


The claimant may have misunderstood. Under the circumstances, the Board finds that permanent discharge is too severe. The Carrier is directed to reinstate the claimant with seniority and all other rights unimpaired, but without pay for time lost. The claimant's standing demerits should be reduced to 50 demerits.

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

  
Union Member

  
Carrier Member