

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 Plains Division Student Foreman G. T. Miller for reinstatement with seniority, vacation, all other rights unimpaired and pay for time lost beginning September 13, 1982, 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 reporting for duty under the influence of an intoxicant and with beer in his possession on Company property at Waynoka, Oklahoma, on September 13, 1982. Pursuant to the investigation, the claimant was found guilty and was discharged from service of the Carrier.

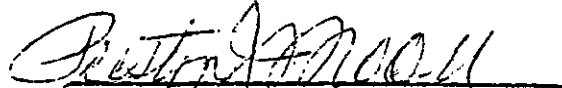
The Organization contends there was insufficient evidence to sustain the charge against the claimant, and further alleged that the charge was improper.

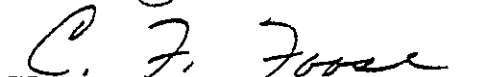
The Board has examined the notice of investigation and the charge contained therein and can find no fault with the wording of the charge. The charge does not constitute prejudgment. The foreman testified that the claimant conceded to him that he was under the influence, and the claimant himself testified that he guessed that he was under the influence of intoxicants. He also admitted in the investigation that he had beer in his possession on Company property. The claimant testified that he was upset about getting lost and running out of gas and that he guessed that's when he drank a few more.

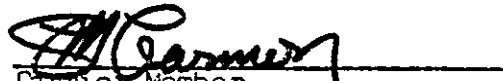
The entire record has been reviewed, and under the circumstances the claimant will be given one last opportunity. The Carrier is directed to reinstate the claimant with seniority and all other rights unimpaired, but without pay for time lost. Also, the claimant will be restricted to service in the lowest class in which seniority is held until such time as he demonstrates to the Carrier's satisfaction that he is willing and able to accept the responsibility associated with service in any higher classes in which he holds seniority.

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 G. Moore, Chairman


Union Member


Carrier Member

1568P

*Dated at Chicago, Illinois
July 15, 1984.*