

PUBLIC LAW BOARD NO. 1582

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

STATEMENT OF CLAIM: That the dismissal of Mr. H. E. Jones was without just and sufficient cause and in violation of the current Agreement; that Trackman H. E. Jones now be reinstated to his former position with the Carrier with compensation for all wage loss suffered and with seniority and all other rights restored unimpaired.

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 employed by the Carrier in 1973 and was a Trackman on the Carrier's Middle Division. On November 21, 1983, the claimant and three other members of his gang were instructed by their foreman to travel from their work site to 36th Street located in Oklahoma City, Oklahoma. The claimant and three other members of his gang were charged with committing an infraction of the rules.

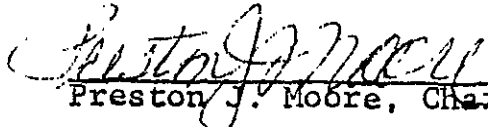
The Organization contends that the Roadmaster suggested that the claimants waive their rights to a formal investigation and accept ten demerits each. The Organization alleges that the Roadmaster assured the claimant that he would not be out of work for longer than two or three months. It is urged that on that basis the claimant accepted the ten demerits, which resulted in his having excessive demerits and being dismissed for accumulating 60 demerits. Thereafter, the claimant was discharged, and the Organization appealed the claim to this Board.

The Board has examined all the evidence of record and it appears that under the circumstances that permanent dismissal is too excessive. The Carrier is directed to reinstate the claimant and offer him a last opportunity to perform. In order to give him that opportunity, the Carrier is directed to reduce the demerits standing of record to 40 demerits. There is no justification for pay for time lost.

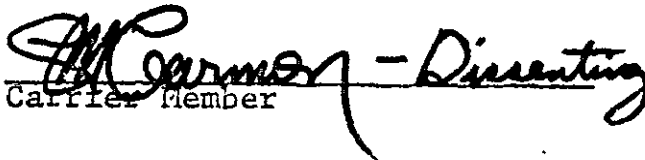
AWARD: Claim sustained as per above.

ORDER: The Carrier is directed to comply with this award within

thirty days from the date of this award.


Preston J. Moore, Chairman


Union Member


Carrier Member - Dissenting

Dated at Chicago, Illinois
September 18, 1984