

PUBLIC LAW BOARD NO. 1582

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


STATEMENT OF CLAIM: That the dismissal of Trackman A. G. Martinez, Jr. violated the provisions of the current Agreement, said action being unduly harsh and in abuse of discretion; that claimant now be reinstated to his former position with the Carrier with seniority rights restored unimpaired and compensated for all wage loss.

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.

The claimant in this dispute was charged in the same investigation as was involved in Award No. 276. The Organization contends that portions of the reason that the claimant is refused reinstatement are because of facts that occurred pursuant to his discharge. The Organization points out that seven other employees were granted leniency and reinstated on that basis. It is now urged that the claimant should be reinstated on the same basis. By the claimant's own testimony there can be no doubt but that he was guilty of violating the rules as charged. Leniency is the prerogative of the Carrier.

The Board has examined the transcript of record and under the circumstances existing herein it is the opinion of the Board that the Carrier was justified in refusing clemency to the claimant.

AWARD: Claim denied.


Preston J. Moore, Chairman


Union Member


Carrier Member

Dated at Chicago, Illinois
September 18, 1984