

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 Carrier's decision to remove Colorado Division Trackman-Truck Driver Ignacio Silvas, Jr. from service was unjust; that the Carrier now reinstate Claimant Silvas with seniority, vacation, all benefit rights unimpaired and pay for all wage loss as a result of investigation held June 14, 1984 continuing forward and/or otherwise made whole, because the Carrier did not introduce substantial, creditable evidence that proved that the claimant violated the rules enumerated in their decision, and even if claimant violated the rules enumerated in the decision, permanent removal from service is extreme and harsh discipline under the circumstances.

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 for failing to report for duty at Raton, New Mexico, May 24, 1984. Pursuant to the investigation, the claimant was found guilty and dismissed from the service of the Carrier.

The Board has examined all the evidence of record and the evidence indicates that the claimant had an alcohol problem which was the cause of part of his problems. On the date that the claimant was scheduled to report for work he had an automobile accident and was charged with driving while intoxicated. This is an extremely serious charge, as evidenced by events which have recently occurred causing several deaths in the operating craft of the railroads. The Carrier is required to be extremely careful to do the utmost in their ability to prevent their employees from drinking while subject to duty. Apparently, the claimant has entered an alcohol rehabilitation program.

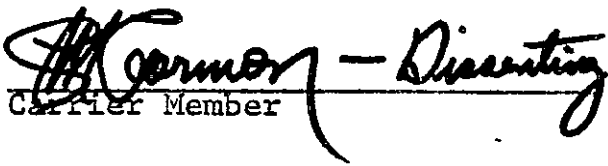
In the event that the claimant successfully passes that program, the Board finds that he should be reinstated with seniority and all other rights unimpaired but without pay for time lost. The claimant's reinstatement will not be effective until 90 days have elapsed.

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

Dated at Chicago, Illinois  
September 18, 1984