

PUBLIC LAW BOARD NO. 1582

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

STATEMENT OF CLAIM: That the Carrier's decision to remove Claimant D. Thomas from service was unjust; That the Carrier now reinstate Claimant Thomas with seniority, vacation, all benefit rights unimpaired and pay for all wage loss as a result of investigation held July 18, 1984, continuing forward and/or otherwise made whole, because the Carrier did not introduce substantial, creditable evidence that proved that the Claimant violated the rule 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 notified to attend an investigation in connection with alleged discrepancies with an alleged injury June 20, 1984 and possible misrepresentation of the facts on his application for Trackman dated December 21, 1983. Pursuant to the investigation, the claimant was found guilty of violation of Rules 2, 14, 16, and 26, General Rules for the Guidance of Employees, 1978. The investigation was held in Clovis, New Mexico, July 18, 1984.

The transcript of record reveals that the claimant had falsified his employment application. The evidence suggests that such falsification was made intentionally for the purpose of gaining employment. The claimant had previously worked for Swift Meat Packing Company and had filed a Workmen's Compensation claim with them. He testified that he did not know the status of the claim at the present time, but thought that the claim had been dismissed. The claimant was unsure as to many of the facts and circumstances; however, he was well aware that he had alleged an injury at Swift & Company previously. The evidence of record indicates that the Carrier would not have hired the claimant herein if they had been aware of his previous employment with Swift & Company.

AWARD: Claim denied.

  
Preston J. Moore, Chairman

  
Union Member

Dated at Chicago, Ill.  
October 22, 1984

