

PUBLIC LAW BOARD NO. 1582

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

STATEMENT OF CLAIM: That the Carrier's decision to suspend Middle Division Machine Operator J. W. Hecker from service for 45 days was unjust; That the Carrier now lift the suspension from Claimant Hecker's record as a result of investigation held November 19, 1984, 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, a suspension of 45 days 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 Newton, Kansas, on November 19, 1984 to determine his responsibility, if any, in connection with possible violation of Rules 122-D, 770, 1055, and 1056, Rules Maintenance of Way and Structures, concerning his alleged failure to lock switch at the west end of elevator track CLIC 8601 at Alamogordo and failure to move machine AT-3796 to east end of elevator track 8601, as instructed by Foreman Alvarez. Pursuant to the investigation, the claimant was found guilty and assessed a 45-day suspension.

The claimant and another employee had been instructed by the foreman to place the stiff boom Tie Handler on the east end of Track 8601 for the night. They placed it on the west end of the track.

Early the following morning, a local entered the west end of the elevator track, struck the derail and the Tie Handler, and demolished the Handler. The foreman testified that he had instructed the two employees to place the machine back on east end of Track 8601.

The other employee accepted 30 days suspension. The claimant did not and alleged that he did not hear the instructions. The evidence indicates that he was in the same location as his fellow employee, waved to the foreman when the instructions were given, and then that evening failed to advise the foreman that he had placed the machine in the west end instead of the east end.

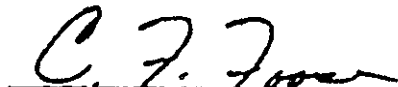
Under the circumstances, there is sufficient evidence for the


Carrier to find the claimant guilty, but it is the opinion of the Board that 45 days is too severe. Under the circumstances, 30 days suspension is the most that can be justified. The discipline is reduced to thirty days.

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
January 14, 1985