

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 assess Claimant Middle Division B&B Mechanic G. G. Hilliard 30 demerits after investigation November 20, 1984 was unjust; That the Carrier now expunge 30 demerits from Claimant's record, reimbursing him for all wage loss and expenses incurred as a result of attending the investigation November 20, 1984 because a review of the investigation transcript reveals that substantial evidence was not introduced that indicates Claimant is guilty of violation of rules he was charged with in the Notice of Investigation.

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 at Newton, Kansas, to develop facts and place his responsibility, if any, in connection with possible violation of Rules 13 and 15 for the Guidance of Employees, Form 2626 Standard, concerning his alleged absentsing himself from duty without proper authority on September 20, 1984. Pursuant to the investigation, the claimant was assessed 30 demerits for violation of Rules 13 and 15.

B&B Foreman W. D. Schneider testified that the claimant was assigned to work on his gang September 20, 1984, and that he failed to report for work. The claimant testified that he was scheduled to work on Gang 14 on September 20, 1984 and that he did not receive permission to lay off, but did fail to report for work.

The claimant testified that he had an alcohol-drug problem and had admitted himself into Prairie View Rehabilitation Center at Newton, Kansas. He testified that he transferred to another facility at St. John's in Salina, Kansas, and spent 32 days there and was released the 13th of November. He testified that he was trying to make four Alcoholics Anonymous meetings a week and go to Aftercare every Friday for the next two years. The claimant further testified that he was in jail the morning of the date he was scheduled to report for work, and that they had advised him that he would be able to leave as soon as he obtained his lawyer and a bondsman.

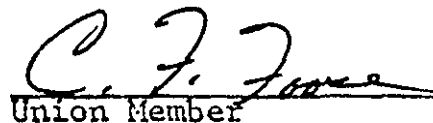
The evidence is clearly sufficient that the claimant was guilty as


charged, but in the opinion of the Board thirty demerits is harsh, arbitrary, and unjust for failure to report to work on that occasion. There is no evidence that the claimant had a history of missing calls, therefore, the discipline will be reduced to fifteen demerits. The Carrier is directed to reduce the discipline assessed to fifteen demerits.

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