

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 20 demerits after investigation February 15, 1985 was unjust; That the Carrier now expunge 20 demerits from Claimant's record, reimbursing him for all wage loss - total 16 hours, February 15 and 18, 1985 - and expenses incurred as result of attending the investigation February 15, 1985 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 February 15, 1985 in Temple, Texas to determine the facts and place responsibility concerning an alleged report that the claimant was absent without proper authority from Extra Gang 31 on January 11, 14, and 15. Pursuant to the investigation the claimant was found guilty and assessed 20 demerits.

The Board has examined the transcript of record. The claimant testified that he made no attempt to contact his foreman and advise her that he would be unable to work January 11, 14, and 15, because she had not given him a phone number where she could be reached. He stated that he did not call Temple (Division Engineer's office) because they had been told on January 7th that calling the office would not help to obtain authority to be off. There is no question that the claimant was sick. He went to the Company doctor, who executed a release stating that he had come to her on the 11th, and was released for work on the 16th. The evidence indicates that the claimant was very sick and at the point of having pneumonia on January 11th. The claimant was ill and was in a quandary on how to reach his foreman. The employees should have some number they can call to advise their foremen that they are ill. Under the circumstances herein, the Board finds that the claimant had no means of reaching his foreman when he was ill.

AWARD: Claim sustained.

ORDER: The Carrier is directed to comply with this award within thirty days from the date of this award.

Dated at Chicago, IL
March 25, 1985


Preston J. Moore, Chairman

Union Member
