

PUBLIC LAW BOARD NO. 1582

PARTIES) ATCHISON, TOPEKA AND SANTA FE RAILROAD COMPANY  
TO )  
DISPUTE) BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES

STATEMENT OF CLAIM: That the Carrier's decision to remove Los Angeles Terminal Division Trackman Frederick Rucker from service was unjust; That the Carrier now reinstate Claimant Rucker with seniority, vacation, all benefit rights unimpaired and pay for all wage loss as a result of investigation held March 18, 1985, 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 notified to attend a formal investigation in Los Angeles, California, March 19, 1985. The claimant was charged with being absent without proper authority on February 15 and subsequent dates. Pursuant to the investigation the claimant was found guilty and dismissed from the service of the Carrier.

Roadmaster Mansheim testified that the last date the claimant requested to be off was January 28. He further testified that the claimant did not perform work after that date.

The testimony of all the witnesses has been reviewed, including the testimony of the claimant. The evidence is persuasive the claimant had good intentions, but was having difficulty in arranging transportation to work.

This transportation to and from work is a requirement to perform service for the Carrier, and the Carrier has to have employees who are dependable and report for work as scheduled. The evidence clearly establishes that the claimant violated Rules 13 and 16 of the Carrier. However, under all the circumstances involved in this particular case, it is the opinion of the Board that permanent dismissal is too severe. For that reason the Carrier is directed to reinstate the claimant with seniority and all other rights unimpaired but without pay for time lost.

AWARD: Claim sustained as per above.

ORDER: The Carrier is directed to comply with this award

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within thirty days from the date of this award.

Preston J. Moore  
Preston J. Moore

C. F. Foss  
Union Member

M. Cannon - Dissenting  
Carrier Member