

PUBLIC LAW BOARD NO. 1582

PARTIES) Atchison, Topeka and Santa Fe Railway Company  
TU )  
DISPUTE) Brotherhood of Maintenance of Way Employees

STATEMENT OF CLAIM: That the Carrier's decision to assess Claimants 30 demerits after each investigation April 16, 1985 was unjust; That the Carrier now expunge 30 demerits from Claimants' records, reimbursing them for all wage loss and expenses incurred as a result of attending the investigation April 16, 1985 because a review of the investigation transcript reveals that substantial evidence was not introduced that indicates Claimants are guilty of violation of rules they were 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 claimants were notified to attend an investigation at Emporia, Kansas, April 16, 1985, to determine the facts and place responsibility concerning the report that Foreman G. R. Stewart and Trackman J. L. Aikins were quarrelsome while at Winfield, Kansas, and to determine if the claimants violated Rules 2, 7, 16 and 31(B) of General Rules for the Guidance of Employees, Form 2626 Standard. Pursuant to the investigation, the claimants were found guilty and each assessed 30 demerits.

The Board has studied all the testimony contained in the transcript of record. Claimant Stewart, who was the Eastern Division Foreman, was completely out of line in the manner in which he talked to the claimant. His actions were more serious than the actions of the claimant. He made some derogatory remarks about the wife of Claimant Aikins which were completely out of line and which cannot be tolerated. The discipline assessed him is clearly justified and there is no justification for overruling the decision of the Carrier.

At the same time, the evidence suggests that Claimant Aikins was also guilty of violating the rules as determined by the Carrier. However, his conduct was not as grievous or serious as that of Claimant Stewart. Therefore, the Carrier is directed to reduce the demerits assessed Claimant Aikins to 15 demerits.

AWARD: Claim disposed of 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  
June 5, 1985