

PUBLIC LAW BOARD NO. 1582

PARTIES) 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 Trackman A. D. Garcia 30 demerits and Trackman L. Garcia 30 demerits after investigation May 23, 1985 was unjust; That the Carrier now expunge 30 demerits from Trackman A. D. Garcia's record and 30 demerits from Trackman L. Garcia's record, reimbursing them for all wage loss and expenses incurred as a result of attending the investigation May 23, 1985 because a review of the investigation transcript reveals that substantial evidence was not introduced that indicates Trackman A. D. Garcia and Trackman L. Garcia 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, A. D. Garcia and L. Garcia, were notified to attend an investigation to be held in Clovis, New Mexico, May 16, 1985. The claimants were charged with allegedly appropriating Company property for their personal use, and that L. Garcia reported for duty under the influence of alcohol on at least two occasions prior to June 25, 1984. Claimant A. D. Garcia was charged for a similar charge, except that he allowed L. Garcia to take a Company adze for his personal use and failed to report that Truck Driver L. Garcia had reported for duty under the influence of alcoholic beverage. The investigation was postponed until May 23, 1985. Pursuant to the investigation the claimants were both found guilty and assessed 30 demerits.

The Board has studied the testimony of record and the evidence submitted. There is sufficient evidence for the Carrier to find that the claimants were guilty to a certain degree. However, their guilt is not as great as other employees who have been assessed 30 demerits for an offense which was more serious. Therefore, the Carrier is directed to reduce the demerits assessed A. D. Garcia to 10 demerits and those assessed L. Garcia to 15 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
Preston J. Moore, Chairman

C. F. Finner
Union Member

L. L. Pope-Dissenting
Carrier Member