

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 violated the provisions of the current Agreement when on August 30, 1984 it dismissed Helper/Truck Driver Mr. E. F. Lucas without first according Mr. Lucas a fair and impartial hearing, said action being excessive and in abuse of discretion; That the Carrier will now be required to reinstate Mr. E. F. Lucas to his former position with seniority and all other rights restored unimpaired and with compensation for all wage loss.

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.

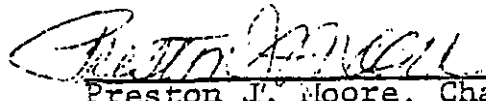
In this dispute the claimant was employed by the Carrier as a B&B Helper in 1970. On Saturday, July 14, 1984, the claimant was working on the bridge located at Milepost 148.9. The claimant was allegedly standing on a brace that had been sprayed with a fire extinguisher and a substance from the fire extinguisher caused the claimant to slip and injure his back. The claimant did not report the alleged injury to his immediate supervisor, but sought medical attention on the following Monday, July 16, 1984. He was treated and released on July 27, 1984.

After being released from the hospital, the claimant contacted his foreman on August 1, 1984 and informed him that he had suffered an on-duty injury on July 14 and wished to fill out the required accident forms. By letter dated August 20, 1984 the Carrier notified the claimant to attend an investigation August 30, 1984 concerning a report that the claimant allegedly misrepresented the facts and/or withheld information in connection with an alleged incident of injury that he claims was sustained at 10:30 a.m. July 14, 1984, at Milepost 148.9, Longview District. Pursuant to the investigation, the claimant was found guilty and dismissed from the service of the Carrier.

The claimant did not attend the investigation, and the Union is unaware of the reason the claimant chose not to attend. The Board has examined the transcript of record and all the evidence and exhibits submitted. The claimant's lack of interest in the disposition of the case and his failure to attend the investigation indicates the lack of desire to work for the Carrier. Under these

circumstances, the Board finds no justification for overruling the decision of the Carrier.

AWARD: Claim denied.


Preston J. Moore, Chairman


Union Member


Carrier Member

Date at Chicago, Illinois
August 19, 1985