

PUBLIC LAW BOARD NO. 1582

PARTIES) ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY
TO)
DISPUTE) BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES

STATEMENT OF CLAIM: That the Carrier's decision to remove Middle Division Trackman Richard Garcia from service was unjust; That the Carrier now reinstate Claimant Richard Garcia with seniority, vacation, all benefit rights unimpaired and pay for all wage loss as a result of the investigation held June 10, 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 an investigation June 10, 1985, in Newton, Kansas. The claimant was charged with claiming a fictitious injury on May 22, 1985, an attempt to receive money for the claimed injury, and reporting for duty the morning of May 23, 1985, under the influence of an intoxicant. Pursuant to the investigation, the claimant was found guilty and dismissed from the service of the Carrier.

The Board has examined the transcript of record. The claimant appeared and waived the right to have a representative present and stated he would represent himself.

Roadmaster Rush testified that the claimant had called him on the evening of the 22nd and stated that if he would be paid for the 22nd and 23rd he would not claim an injury. He further testified that the claimant had shown him some bruises on his body on the morning of the 23rd that he had received from a fight. The claimant stated that he had been in jail on the 22nd. The Roadmaster further testified the claimant reported to work May 23 at 9:00 a.m. under the influence of alcohol, and that he took him back to Newton and put him to bed. The claimant testified that all that the Roadmaster said was true. Under the circumstances, there is no justification for overruling

the decision of the Carrier.

AWARD: Claim denied.


Preston J. Moore, Chairman


Union Member


Carrier Member

Dated at Chicago, Illinois

September 20, 1985