

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 remove Albuquerque Division Trackman C. R. Lowden from service after investigation May 23, 1986, was unjust; That the Carrier now reinstate Trackman Lowden with seniority, vacation, all benefit rights unimpaired and pay for all wage loss as a result of investigation held May 23, 1986, 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 at Winslow, Arizona, on Monday, March 24, 1986 concerning his alleged violation of Rule 6, General Rules for the Guidance of Employees, Form 2626 Std., while on Company property at Winslow, Arizona, March 11, 1986, and Rule 15, General Rules for the Guidance of Employees, Form 2626 Std., being absent from Switch Gang 303-23 without proper authority on March 11, 1986.

The investigation was postponed and held on May 23, 1986. Pursuant to the investigation the claimant was found guilty and dismissed from the service of the Company, by letter dated May 28, 1986.

Rule 6 prohibits the use of alcoholic beverages, intoxicants, drugs, narcotics, marijuana, or controlled substances by employees subject to duty, when on duty, or on Company property. Rule 15 requires that employees must report for duty at the prescribed time and place.

Roadmaster's Clerk J. B. Edwards testified that at approximately 10:00 a.m. on March 11, 1986, she noticed a man standing at her desk window and asked if she could help. The man stated he wanted to see about getting some money

and stated that he was C. R. Lowden. The crew clerk asked him if he was supposed to be working and he said, "Yeah". The crew clerk stated that at that time she could smell the aroma of alcohol, and she asked Assistant Division Engineer Walt Smith if he could help the claimant.

Mr. Smith went out in the hallway and talked with the claimant for a few minutes. Then they both went into the Engineer Division office.

Mr. W. N. Smith, Assistant Division Engineer of the Albuquerque Division, testified that the claimant was assigned to Switch Construction Gang 303-23 on March 11th and that the Gang's headquarters were located in Winslow, Arizona.

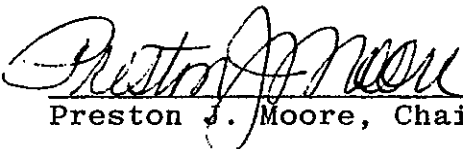
The Gang was performing work at Hibbard, Arizona, which is approximately seven miles from Winslow. The Gang's assigned hours on that date were 7:30 a.m. until 4:00 p.m., with a half hour for lunch. The claimant did not report for duty on March 11th and did not have proper authority to be absent. Mr. Smith also testified that the claimant admitted he had not contacted the foreman to get proper authority to be absent.


Mr. Smith also testified that he could smell alcohol on the claimant's breath, and the claimant admitted having two beers. He further stated that he offered to get the claimant in contact with the counselor, but the claimant advised him he had already contacted the counselor two or three times and had never gotten involved in a rehabilitation program.

The claimant was not present for the investigation. The evidence in his absence indicates that he is unable to solve his alcohol problem in order to retain his job. Under the circumstances, there is no justification for setting the discipline aside.

AWARD: Claim denied.

Dated at Chicago, Illinois
July 25, 1986


Preston J. Moore, Chairman


Union Member


Carrier Member