

PUBLIC LAW BOARD NO. 1582

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

STATEMENT OF CLAIM: That the Carrier's decision to remove Claimant D. C. Vallejos from service after investigation June 27, 1986 was unjust; That the Carrier now reinstate Claimant Vallejos with seniority, vacation, all benefit rights unimpaired and pay for all wage loss as a result of investigation held June 27, 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.

By letter dated May 22, 1986, the Carrier notified the claimant that his seniority and his employment with the Company was terminated because he had been absent without proper authority starting March 24, 1986. The Carrier cited the Agreement between the parties, and specifically Appendix 11, which is a Letter of Understanding dated July 13, 1976.

The claimant requested a formal investigation and the investigation was held in San Bernardino, California, on June 27, 1986. A certified letter dated June 13, 1986 was mailed to the claimant. The letter advised him that the investigation would commence at 9:00 a.m. At 9:55 a.m. the claimant had not appeared, nor had he requested a postponement. At 9:55 a.m. the investigation commenced with the claimant absent.

The evidence indicates that the claimant last reported for duty on March 21, 1986. The Carrier made every effort to contact him, but was unable to do so. The claimant did not have permission to lay off, nor did he request a leave of absence.


The claimant was removed from service on May 22, 1986. Under the circumstances herein there is no justification for setting the discipline aside.

AWARD: Claim denied.


Preston J. Moore, Chairman


Union Member

Dated at Chicago, Illinois
August 11, 1986


Carrier Member