

PUBLIC LAW BOARD NO. 1582

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

STATEMENT OF CLAIM:

1. That the Carrier's decision to remove Southern Division Trackman J. E. Burnett from service was unjust.
2. That the Carrier now reinstate Claimant Burnett with seniority, vacation, all benefit rights unimpaired and pay for all wage loss as a result of investigation held 1:00 p.m., May 18, 1987 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 at Temple, Texas on May 18, 1987. The claimant was charged with his being absent without proper authority on April 6 through April 10, 1987 in violation of Rules 13 and 15, General Rules for the Guidance of Employees, Form 2626 Standard. Pursuant to the investigation the claimant was found guilty and was dismissed from the service of the Carrier.

R. A. Dailey, Foreman of Extra Gang 51, Deridder, Louisiana testified that the claimant was assigned to his gang during the week of April 6, 1987. He testified that the claimant did not work the week of April 6 and that he received no communication from the claimant regarding his absence until the claimant returned to work on Monday, April 13, 1987.

The claimant presented a doctor's release paper and stated that he had been sick.

Assistant Division Engineer S. A. Goodall testified that he checked with Roadmaster Shurson and Foreman Dailey to see if the claimant had contacted either of them regarding his being sick. He also stated that he contacted Mr. Gotcher and Mr. Burnett at the Division Engineer's Office to see if the claimant had contacted them.

Mr. Goodall also testified that he had given the claimant instructions several times when he had been absent from work and that he had talked personally with him about the need to contact his foreman by phone or talk to him in person while he was on the job when he needed to be off work. He further testified that he advised the claimant if he found he had to be off work and was unable to contact his foreman, he should contact the Roadmaster and inform him regarding the situation.

The Board has reviewed all of the testimony of record and finds that permanent dismissal at this time is too severe. However, the claimant should be cautioned by the Carrier that any further absence without notification to his foreman or the office of the Roadmaster or even the Division Engineer's Office will justify permanent dismissal.

The Carrier is directed to reinstate the claimant with seniority and all other rights unimpaired but without pay for time lost.

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, Chairman

*Dated at Chicago, Illinois  
July 20, 1987*

  
Union Member

  
Carrier Member