

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 2:00 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 a formal investigation at Temple, Texas on May 18, 1987. The claimant was charged with being absent without proper authority on April 21, 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 dismissed from the service of the Carrier.

Assistant Division Engineer S. A. Goodall testified that the claimant was assigned to Extra Gang 51 and that the regular foreman on the job was being relieved by Foreman Rowlett. He stated that he received a wire from Foreman Rowlett advising that the claimant was absent without authority. He further testified that he interviewed the Roadmaster, as well as the foreman, and neither had any knowledge regarding the claimant's absence.

Mr. Goodall stated that he talked to the claimant, and the claimant advised him that he was riding with another man and the car broke down. He testified that the claimant stated he was coming from the Brenham-Somerville area, which is approximately 150 miles away. He also testified that the claimant was authorized a per diem allowance to stay in a motel.

Mr. Goodall also testified that the claimant advised him that he made no effort to contact his foreman or the roadmaster. He also stated that he had instructed the claimant on several occasions regarding what to do to obtain authority to be absent.

Under the circumstances herein, it is the opinion of the Board that permanent dismissal is too severe. The Carrier should advise the claimant, however, that any further absences of this nature will justify permanent discharge.

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
Preston J. Moore, Chairman

Dated at Chicago, Illinois
July 20, 1887

C. F. Jones
Union Member

J. J. Pope
Carrier Member