

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 Kansas City Division B&B Carpenter L. B. Mitchell from service was unjust.
2. That the Carrier now reinstate Claimant Mitchell with seniority, vacation, all benefit rights unimpaired and pay for all wage loss as a result of investigation held 9:00 a.m. September 11, 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 on September 11, 1987 to develop the facts and place the responsibility, if any, in connection with his possible violation of Rules 2, 14, 15 and 16 of General Rules for the Guidance of Employees, Form 2626 Std. concerning his allegedly being absent without proper authority on September 4, 1987.

Pursuant to the investigation the claimant was found guilty and was dismissed from the service of the Carrier. The Union contends that the Carrier's decision was unjust and too severe.

The transcript of record and the evidence produced therein establishes that the claimant did not appear for the investigation. The claimant received notice of the investigation.

The claimant was absent on September 4, 1987, and he did not call in or give any notification to the Carrier as to the reason for his absence. The Carrier reviewed the claimant's past record and determined that discharge was the proper discipline.

The Board has reviewed the claimant's discipline record and finds he has a very poor attendance record and has been disciplined numerous times and warned on many occasions. Under the circumstances, there is no justification for setting the discipline aside.

AWARD: Claim denied.

Preston J. Moore
Preston J. Moore, Chairman

*Dated at Chicago, Illinois
November 16, 1987*

C. J. Foor
Union Member

L. J. Pope
Carrier Member