

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 assess Claimant G. A. Martinez thirty (30) demerits after investigation October 12, 1987 was unjust.
2. That the Carrier now expunge thirty (30) demerits from the Claimant's record, reimbursing him for all wage loss and expenses incurred as a result of attending the investigation October 12, 1987 because a review of the investigation transcript reveals that substantial evidence was not introduced that indicates Claimant is guilty of violation of rules he was charged with in the Notice of Investigation.

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 there were two notices of investigation. One was dated September 30, 1987 advising the claimant that an investigation would be held on October 12, 1987 concerning his allegedly being absent without proper authority on September 23, 1987. On October 12, 1987 the claimant signed a demerit waiver and accepted the twenty-five demerits for that violation.

The second notice of investigation was dated September 25, 1987 and advised the claimant to attend an investigation one hour earlier on October 12, 1987 concerning an alleged violation of riding on the Ballast Regulator and allegedly reading a magazine in possible violation of Rules 16 and 17, General Rules for the Guidance of Employees, Form 2626 Std.

There is no dispute in facts in this case. The claimant agreed that he was reading a magazine while on duty and assigned to assist the operator on a Ballast Regulator.

The claimant's record stands at fifty-five demerits, and the claimant recognized that the accumulation of sixty demerits subjects him to dismissal.

Under the circumstances herein the Board finds there is no justification to set the discipline aside.

AWARD: Claim denied.

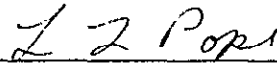


Preston J. Moore, Chairman

*Dated at Chicago, Illinois  
November 14, 1987*



Union Member



Carrier Member