

PUBLIC LAW BOARD NO. 1582

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

STATEMENT OF CLAIM: Carrier's decision to remove former Albuquerque Division Trackman T. L. McCauley from service, effective March 13, 1987, was unjust.

Accordingly, Carrier should be required to reinstate Claimant McCauley to service with his seniority rights unimpaired and compensate him for all wages lost from March 13, 1987.

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 in Winslow, Arizona on February 17, 1987 concerning his alleged violation of Rules 1, 2, 14, 16 and 30, General Rules for the Guidance of Employees, Form 2626 Std., and Rule 4, Safety Rules for Santa Fe Employees, Form 2629 Std., when he allegedly made a late and false report of injury, Form 1421 Standard, on January 27, 1987, while employed as a trackman on the Albuquerque Division.

The claimant testified that he was injured on January 12, 1987. He stated he did not know any specific time when the injury occurred, but it was in the morning. He testified he was loading a buggy onto the front of the tamper, and he felt a pain at that time. Claimant also testified that he told the foreman that he felt pain on that date.

The claimant testified that on January 13, 1987 he advised Roadmaster Foster that he had sustained an on-duty injury. He stated that he did not so advise Safety Supervisor Cook and did not request a Form 1421 at that time. He stated that he did fill out Form 1421 (Report of Injured Person) on January 21 or January 27. Claimant testified that neither Mr. Foster nor Mr. Cook offered him a 1421 to be filled out.

The Foreman of Extra Gang 352 testified that on January 12, 1987 the claimant did not inform him at any time that he had been injured. He stated that he saw the claimant's performance on the afternoon of January 12, and the claimant was doing a good job.

Track Foreman A. C. Eddie testified that he had no conversation with the claimant regarding any injury during the lunch hour on January 12.

Roadmaster G. A. Foster testified that he had a conversation with the claimant at approximately 3:40 p.m. on January 13, 1987, and the claimant told him that a doctor gave him a statement that he could return to work with a lifting restriction of not over 25 pounds and that he had a strain. He testified that he asked the claimant if he knew what caused the strain and possible hernia, and the claimant responded that he did not know what caused it. He testified he then asked the claimant if the condition was caused by anything he had done at work on January 12, and the claimant replied: "Not as far as he knew."

Michael J. Cook, Safety Supervisor for the Albuquerque Division, testified that neither the claimant nor Mr. Foster indicated to him that an on-duty injury was involved in this incident. He stated that he first became aware of the incident on January 27 when the claimant came to his office and indicated the injury had occurred on January 13.

The evidence indicates the Carrier questioned the claimant's doctor and Dr. Lee stated that the claimant related to him that the pain had been there for about one week prior to the examination on January 13, 1987. The Carrier also talked to the doctor's nurse who stated that when the claimant came into the office on January 13 she asked him whether or not he had been injured on duty, and he responded that he had not.

The Board has reviewed all the testimony of record and finds there is sufficient evidence to find the claimant guilty as charged. Thus there is no justification for setting the discipline aside.

AWARD: Claim denied.

  
Preston J. Moore, Chairman

  
Union Member

*Dated at Chicago, Illinois  
January 18, 1988*

  
Carrier Member