

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 R. L. Ketrings from service, effective March 27, 1987, was unjust.

Accordingly, Carrier should be required to reinstate Claimant Ketrings to service with his seniority rights unimpaired and compensate him for all wages lost from March 27, 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 April 13, 1987 concerning his allegedly fouling the detector section at East Gallup without authority of the dispatchers and disabling the signal appliances so that the signals at East Gallup would not display stop indication on March 26, 1987, and to determine the facts and place the responsibility, if any, involving possible violation of Rules 1, 2, 4 and 14, General Rules for the Guidance of Employees, Form 2626 STD., and several other rules. Those rules were set forth.

The investigation was held on April 13, 1987, and pursuant thereto the claimant was found guilty and was dismissed from the service of the Carrier.

At the outset the Union contended that the Notice of Investigation to the claimant was not a proper notice because it did not apprise the claimant of the precise nature of the charges being brought against him. The Board has reviewed the charges and finds they are sufficient to adequately and precisely advise the claimant of the nature of the charges.

The claimant was assigned as foreman on the East Gallup Section on March 26, 1987. The transcript contains 60 pages of testimony. The testimony of every witness has been reviewed. The exhibits, including the discipline record of the claimant, which was a poor record, have been considered.

The evidence establishes that the claimant had taken the east long lead out of service with Assistant Trainmaster No. 1 at Gallup. He had also spiked the switch from the north main track to the east long lead out of service. He failed to notify the dispatcher. Also the claimant had received track time and limits on the north main track between East and West Gallup twice and had never received track time and limits at West Gallup.

The claimant testified that he instructed the Burro Crane Operator to go east of the holding signal which fouled the detector section at East Gallup. The claimant admitted that the Burro Crane could have fouled the north main track.

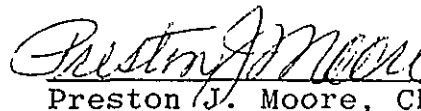
Welder Nex testified that the claimant had instructed him to work on the east long lead, east of the holding signal at East Gallup.


The evidence establishes that two trains were delayed on March 26 because the block signal displayed red.

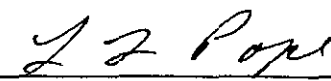
Under the circumstances involved herein the evidence is sufficient for the Carrier to find the claimant was guilty as charged. However, in view of all the circumstances existing herein it is the opinion of the Board that permanent dismissal is too severe. The Carrier is directed to reinstate the claimant with seniority and all other rights unimpaired but without pay for time lost. The claimant's discipline record will stand at 55 demerits upon his reinstatement.

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

  
Union Member

  
Carrier Member

*Dated at Chicago, Illinois*  
*January 18, 1988*