

PUBLIC LAW BOARD NO. 1582

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

STATEMENT OF CLAIM:

1. That the Carrier's decision to assess Claimant D. P. Yazzie thirty (30) demerits after investigation March 4, 1988 was unjust.
2. That the Carrier now expunge thirty (30) demerits from claimant's record, reimbursing him for all wage loss and expenses incurred as a result of attending the investigation March 4, 1988, because a review of the investigation transcript reveals that substantial evidence was not introduced that indicates the 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 the claimant was notified to attend a formal investigation at Newton, Kansas on March 4, 1988 to develop the facts and place the responsibility, if any, in connection with the possible violation of Rules 13 and 15 of the General Rules for the Guidance of employees, 1978, Form 2626 Standard concerning his allegedly being absent from duty without permission on February 8, 9, 10, 11 and 12, 1988.

Pursuant to the investigation the claimant was found guilty and was assessed thirty demerits.

Roadmaster L. D. Jones testified that the claimant was under his supervision on the dates in question. He further testified that the claimant did not report for duty on those dates, nor did he have permission to lay off. Mr. Jones testified the claimant did not work directly under his supervision but he had checked with the claimant's immediate foreman to see if permission had been given to the claimant to be off work, and he stated that he had not given such permission.

The claimant testified he was supposed to be at Ness City on those dates but did not work on the dates in question. The claimant testified that about 4 o'clock in the morning of February 8, while he was driving to work, the police stopped him and impounded his car for his not having a driver's license, no insurance and no tag. The claimant testified that the policeman advised him he would call the foreman and advise him why the claimant was not at work, but apparently he did not do so.

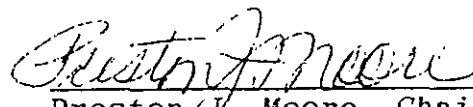
The claimant further testified that he called his foreman on Tuesday morning and told him he could not make it to work that week because he was having car problems.

The evidence of record indicates that car trouble is not an excusable absence. However, there is no testimony that the claimant was advised to report to work. To the contrary, the evidence indicates that the claimant was advised to try and make it to work. Apparently claimant was advised that car trouble is not an excusable absence. However, the claimant's foreman should have advised him that he would be marked absent without leave if he could not be present after Tuesday morning.

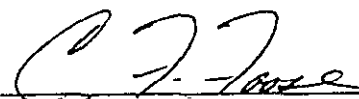
For the foregoing reasons the discipline assessed will be reduced to fifteen demerits.

AWARD: Claim disposed of 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

*Dated at Chicago, Illinois  
April 15, 1988*

  
Organization Member

  
Carrier Member