

PUBLIC LAW BOARD NO. 1582

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

STATEMENT OF CLAIM: Claim on behalf of Los Angeles Division Assistant Foreman Joe Baragry for removal of twenty (20) demerits assessed his personal record.

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 at San Bernardino, California on November 11, 1987. The claimant was charged with allegedly appropriating Company vehicle for personal use at noon on November 2, 1987 and his failure to devote himself exclusively to his duties while on duty on that date.

The claimant testified that he was the assistant section foreman for Section 44, Corona, California and that on November 2 he sent Mr. Tenorio to drive the truck and get some hamburgers and directed Carlos Renteria to accompany him.

These two employees drove approximately two miles to a shopping center in the City of Fullerton where Mr. Tenorio bought some hamburgers and Mr. Renteria bought a six pack of beer.

Assistant Division Engineer Mansheim and Track Supervisor Canales observed the two employees purchasing the hamburgers and beer.

The claimant herein admitted sending the employees and the truck for the hamburgers. He testified that he was not aware they were purchasing beer.

The claimant was found guilty of violating Rule 16. The evidence is sufficient for the Carrier to find that the claimant was guilty as charged. The claimant had prior discipline, including two incidents involving violation of Rule 16 of the General Rules for the Guidance of Employees.

Under those circumstances there is no justification for setting the discipline aside.

The Union contends that the Agreement provides that the Superintendent should render a decision promptly. The decision herein was made 33 days after the closing of the investigation. Previously

30 days has been determined to be within that scope. The Carrier should be on notice that 33 days is certainly approaching an area where the decision is not being made promptly.

AWARD: Claim denied.

Preston J. Moore

Preston J. Moore, Chairman

C. J. Moore

Union Member

L Z Pope

Carrier Member

Dated at Chicago, Illinois

May 17, 1988