

PUBLIC LAW BOARD NO. 1582

PARTIES) 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 M. J. Gilliland thirty (30) demerits after investigation April 20, 1988 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 April 20, 1988 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 the claimant was notified to attend a formal investigation in Lubbock, Texas at April 20, 1988 concerning his allegedly being six hours late in reporting for duty on March 25, 1988, while working on Extra Gang 55 involving a possible violation of Rules 13 and 15 of General Rules for the Guidance of Employees, 1978, and/or Rules Maintenance of Way and Structures, October 28, 1985.

The investigation was held on April 18 at the request of the Organization. Pursuant to the investigation the claimant was found guilty of violating Rules 13 and 15 of the General Rules for the Guidance of Employees and was assessed thirty demerits.

The claimant testified that he tried to get hold of the foreman the night before between 8:30 and 9:00 but could not reach him. He testified that he thought he would try to get hold of him the next morning before he went to work, and the foreman had already left for work, so the guy he was riding with came by and the claimant advised him he was going to be late and would he tell the foreman he would be there a little late. It took a little longer for him to take care of his personal business than he thought, and he went straight to work. He stated that he was not six hours late. He testified that it was right around lunch by the time he got back up there with the truck driver.

He testified that his hours on duty that date were 7:00 a.m. to 3:30 p.m. He testified that he got in the truck at approximately 12:30 and arrive at the job site about 1:20 p.m.

Foreman M. E. Shropshire testified that he was the extra gang foreman on Gang 55 on the date in question. He stated that about 9:30 a.m. Trackman Miller advised him that the claimant would probably be late. He stated the claimant reported at about 1:30 p.m. for work with Mr. Miller in the Company truck. He testified the claimant stated he was getting a tire for his motorcycle.

Roadmaster Rinne testified that he offered the claimant thirty demerits for his responsibility for being absent without proper authority. He also stated that if the claimant was unable to get hold of his foreman, he was instructed to contact the Roadmaster prior to his on-duty time.

In this regard the claimant stated that the Roadmaster had instructed him to call the foreman and not him.

The evidence of record indicates that the claimant attempted to call the night before and had been instructed not to call the Roadmaster. The claimant also anticipated that he would not be very late for work, but delay in the papers on the motorcycle was caused for the reason it had not been registered for ten years.


Under the circumstances the claimant violated the rules but thirty demerits is excessive herein. The Carrier is directed to reduce the demerits to fifteen demerits.

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, Neutral

*Dated at Chicago, Illinois
June 20, 1988*


Union Member


Carrier Member