

PUBLIC LAW BOARD NO. 1582

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

STATEMENT OF CLAIM:

1. Carrier's decision to remove former Plains Division Trackman F. N. Quintanilla from service, effective October 30, 1987, was unjust.

Accordingly Carrier should be required to reinstate Claimant Quintanilla to service with his seniority rights unimpaired and compensate him for all wages lost from October 30, 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 Lubbock, Texas on October 23, 1987 concerning his allegedly being absent without proper authority from his assignment on Alpine Section on October 2 and 14, 1987 and to determine the facts and place the responsibility, if any, involving possible violation of Rules 13 and 15 of the General Rules for the Guidance of Employees, 1978.

The investigation was postponed and was held on October 30, 1987. Pursuant to the investigation the claimant was found guilty and was assessed 30 demerits. This gave the claimant 80 demerits outstanding, and the claimant was dismissed from the service of the Carrier for excessive demerits.

The claimant testified that he did not report on October 2, 1987 but called Mr. Flores about 7:10 a.m. that morning and asked for authority to be absent, and Mr. Flores said: "I'll see you Monday."

The claimant testified he was absent on October 14, 1987 and did not have authority to be absent. The claimant testified he did not call on October 14 because he was offered brownies for being absent on October 2, and he thought it would not do much good to call. The claimant stated that he believed he had permission to be off on October 2.

R. T. Flores, Foreman of Alpine Section 83, testified that the claimant was under his supervision On October 2 and 14. He testified the claimant called him about 7:00 a.m. the morning of

October 2 and advised him he was just going to bed and was in no condition to work. He stated that he told the claimant he should have thought about that at 3:00 or 4:00 o'clock in the morning.

Mr. Flores then testified that the claimant asked him to excuse him for that date, but he told the claimant he wouldn't do that since he did not have a good excuse for not showing up for work. He testified that he gave a negative response when the claimant requested to be excused on October 2 and only then told the claimant that he would see him on Monday.

The Board has carefully reviewed the position of the Union. The only issue before the Board is whether 30 demerits is excessive for the actions of the claimant herein. In view of the claimant's previous record, the Board finds that the discipline which was assessed herein is reasonable.

Consequently when the claimant's outstanding demerits stood at 80, he was subject to discharge, and the Board does not have the authority to set the discharge aside.

AWARD: Claim denied.


Preston J. Moore, Chairman

*Dated at Chicago, Illinois
July 6, 1988*


Organization Member


Carrier Member