

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) Carrier's decision to remove former New Division Trackman E. R. Montoya from service, effective December 29, 1987, was unjust.

(2) Accordingly Carrier should be required to reinstate Claimant Montoya to service with his seniority rights unimpaired and compensate him for all wages lost from December 29, 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 Carrier notified the claimant by letter dated December 29, 1987 that he had signed for 30 demerits for being absent without proper authority at Ft. Sumner, New Mexico on December 18, 1987.

This waiver, which was signed by the claimant, stated: " . . . I understand that the assessment of the discipline stated above will result in my record having a balance of 70 demerits. I also acknowledge awareness that an accumulation of 60 demerits subjects me to dismissal under provisions of applicable rules and/or operating bulletins that govern my occupation."

In this same letter the Carrier notified the claimant that under the Brown System of Demerits 60 demerits subjected an employee to dismissal, and accordingly his seniority and employment were terminated effective December 29, 1987.

The Union filed a claim in behalf of the claimant which is now before this Board for a decision.

The fact remains that the claimant signed for 30 demerits which placed him in a position where he could be terminated. This Board has no jurisdiction to set the termination aside.

AWARD: Claim denied.

Preston J. Moore  
Preston J. Moore, Chairman

C. F. Foon  
Union Member

*Dated at Chicago, Illinois  
July 6, 1988*

L. Z. Pope  
Carrier Member