

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 B. Short (15) demerits after investigation June 20, 1988 was unjust.

2. That the Carrier now expunge fifteen (15) demerits from the claimant's record, reimbursing him for all wage loss and expenses incurred as a result of attending the investigation June 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 Winslow, Arizona on June 20, 1988 concerning his alleged failure to follow instructions and his alleged failure to properly maintain his machine which resulted in unnecessary delay to work being performed between Isleta and Dalies on May 23 and 24, 1988 in apparent violation of Rules A, B, 600 and 1041, Rules Maintenance of Way and Structures, Form 1015 Std., effective October 28, 1985, while employed as a machine operator on the Arizona Division.

Pursuant to the investigation the claimant was found guilty and was assessed 15 demerits.

The claimant testified he was a Group 5 Operator and was employed as a machine operator on May 23 and 24, 1988. The claimant stated he reported on the morning of the 23rd at Dalies and was assigned to a dozer, D-7 AT No. 1795. He testified the machine did not arrive from Dalies until after the 23rd.

The claimant testified that he worked the machine on the afternoon of the 24th. He testified they unloaded the machine on the morning of the 24th, and they had to put the blade back on and then had to road the machine approximately seven and one-half miles to MP 20.4.

The claimant testified that the machine was low on fuel, and Mr. Vaughn had told him on Monday that he could pick up the fuel in Belen. He stated that Mr. Vaughn gave him the man's name and the approximate location.

The claimant testified he did not pick up the fuel because by the time they got the dozer and the equipment unloaded and got the blade installed, Mr. Vaughn had left, and the relief track supervisor instructed him to take the machine on down.

The claimant testified that he did not get fuel on the 23rd but asked if he could go back to Gallup to get his pick up and did so. He stated he did not know he was supposed to pick up the fuel at the Texaco Filling Station but thought the fuel was supposed to be picked up from a bulk plant.

The claimant testified he took the machine to the work site and ran out of fuel. He testified that Mr. Vaughn drove up at the time he was going to get some fuel from the flagman, and Mr. Vaughn said that "he could get his own damn fuel." He stated that he could have gotten the fuel on the evening of the 23rd if he had known it was a Texaco Station instead of a bulk plant.

Roadmaster Paul Vaughn testified that the machine arrived about the middle of the afternoon on the 23rd. He testified that on the morning of the 23rd the claimant advised him that he needed a half day to go and get his pickup truck which had his fuel barrel and oil barrel in it, and he allowed the claimant approximately four hours to obtain his truck, fuel barrel and oil barrel and he instructed the claimant that he should get diesel from Akin Texaco at Belen on the south end of town.

Roadmaster Vaughn also testified that he told the claimant if he had any difficulty, he would either have somebody show him where it was or he would show him where it was. He testified that he further advised the claimant that the Texaco Station was both a station and a place where he obtained diesel in bulk. He testified that if the claimant had contacted someone, they would have assisted him if it was necessary to obtain diesel fuel for his equipment.

The claimant admitted that he did not contact the Chief Dispatcher's Office to get Mr. Vaughn's location and that he made no attempt to look up the owner's name of the filling station in the telephone book. The claimant stated that he assumed the place was a bulk plant, and it would be closed.

Under the circumstances the Carrier is justified in reaching a decision that the claimant did not properly perform his duties and was guilty as charged. There is no basis to overrule the decision of the Carrier.

AWARD: Claim denied.

Preston J. Moore
Preston J. Moore, Chairman

C. F. Foss
Organization Member
Dated at Chicago, Illinois
August 18, 1988

L. Z. Popl
Carrier Member