

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 in behalf of former Trackman J. E. Martinez, Colorado Division, for reinstatement with seniority, vacation and all other rights unimpaired and compensation for wage loss beginning April 14, 1975 continuing forward to date that he is restored to service.

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 Organization contends that the Carrier required the claimant to sign an undated letter of resignation and contends that the claimant should be reinstated with seniority and all other rights unimpaired and be paid for time lost. The Carrier contends that the claimant voluntarily signed the letter of resignation dated April 14, 1975.

The claimant commenced service with the Carrier on March 14, 1974 and during this period of service with the Carrier absented himself from duty on a number of occasions. On November 18, 1974 the roadmaster called the claimant into his office and warned him that his continued absences without authority would cause him to be removed from service. The claimant advised the roadmaster that this would not happen again and asked that he be given another chance.

On February 10, 1975 the claimant again failed to report for work and advised the foreman that he had been involved in an automobile accident. On February 18, 1975 when the claimant returned to work, the roadmaster again conferred with the claimant regarding improper notification of not being able to report for work.

The Claimant was again warned by the roadmaster about proper notification and being absent from work without authority. The Division Engineer also spoke to the claimant at this time regarding his obtaining proper authority for his absences.

On April 9, 1975 the claimant again was absent from duty without proper authority. The Carrier discovered that the claimant was in jail in Pueblo, Colorado and was charged with driving while under the influence. The claimant reported for work on April 14, 1975, and the roadmaster advised the claimant that he would be charged with violation of Rule 16. This information was explained to the claimant in Spanish by the foreman.

Evidence of record indicates that the claimant stated he wished to resign rather than appear at a formal investigation. Evidence further indicates that the claimant was given a resignation which he signed and returned to the supervisor. The supervisor noticed that the date was not inserted, and he requested the claimant to insert the date, which he did.

The Organization contends that the claimant had signed an undated letter of resignation which was given to the Carrier previously. However, there is no evidence to support this allegation, but the parties are cautioned that the Board would not countenance the Carrier requiring an employee to sign an undated letter of resignation which the Carrier could retain in its possession and then place into effect at its discretion. There is no evidence of record that such was the case herein. The Board finds no support for the claim.

AWARD: Claim denied.

sd/ Preston J. Moore
Preston J. Moore, Chairman

sd/ S. E. Fleming
Organization Member

sd/ B. J. East
Carrier Member