

PUBLIC LAW BOARD NO. 1582

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

STATEMENT OF CLAIM:

That the Carrier's decision to assess Claimant Villegas twenty (20) demerits after investigation June 30, 1989 was unjust.

2. That the Carrier now expunge twenty (20) demerits from Claimant's record, reimbursing him for all wage loss and expenses incurred as a result of attending the investigation June 30, 1989 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 Fresno, California on June 30, 1989 to determine the facts and place responsibility, if any, concerning Messrs. D. J. Villegas and W. S. Maestas alleged altercation on June 22, 1989 at 7:40 a.m. near the Mormon Yard Office, in possible violation of Rules A, B, 1007 and 1008, Safety and General Rules for all Employees, Form 2629 Standard, April 1, 1988 Edition.

Pursuant to the investigation the claimant was assessed 20 demerits for violation of Rules A, B and 1007, Safety and General Rules for all Employees, Form 2629 Standard.

The Board has studied the testimony of the claimant which was supported by another witness. After reviewing the 24 pages of testimony the Board is of the opinion that the discipline assessed is not reasonable.

The claimant used a poor choice of words, and the Carrier is justified in issuing a Letter of Reprimand to advise him that such will not be permitted on the property.

The Board finds that 20 demerits is excessive and directs Carrier to remove those demerits from the claimant's record and to issue a written reprimand.

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
Preston J. Moore, Chairman

Dated at Chicago, Illinois
September 12, 1989

C. F. Jones
Union Member

L. J. Pope
Carrier Member