

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 C. R. Dovaless, Valley Division, for reinstatement with seniority, vacation and all other rights unimpaired and compensate him for wage loss beginning November 14, 1974 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 alleges that the transcript of record does not support the charge and that the claimant should be reinstated with seniority and all other rights unimpaired and with pay for time lost.

Herein the claimant last performed service on May 31, 1974. On June 4, 1974 the claimant's wife called the roadmaster's office and notified him that the claimant had been arrested and was confined to the Merced County Road Camp. An investigation revealed that the claimant had been confined for contributing to the delinquency of a minor and that he would be confined until October.

The Organization filed a claim in which they stated the investigation was not timely held and that the claimant had not been instructed in the general rules for the guidance of employees.

The claimant was discharged for being absent from duty without authority in violation of Rule 16. The claimant was notified by certified mail to attend the investigation but did not appear. (He could not attend since he was in jail). The claimant was removed from service for his responsibility in being absent from duty without proper authority.

On October 14, 1974 the claimant requested that the investigation be reconvened. The reconvened investigation was conducted November 14, 1974 to determine the facts and place responsibility, if any, in connection with the claimant's absence from duty without authority. As a result of the reconvened investigation, the claimant was again found responsible for violating Rule 16 and for having falsified his application for employment.

The evidence of record is sufficient to establish that the claimant was absent without authority and certainly did not notify the Carrier. The claimant also falsified his application for employment. On the application for employment the claimant stated that he had never been convicted of a crime.

The court record shows that the claimant had previously been convicted on the charge of contributing to the delinquency of a minor on February 15, 1973. This is information to which the Carrier would certainly be entitled in consideration of the hiring of an employee.

Regardless of this information, the claimant was absent from duty and failed to notify the Carrier that he would be absent from duty. Under the circumstances there is no basis to overrule the decision of the Carrier.

AWARD. Claim denied.

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

sd/ S. E. Fleming  
Organization Member

sd/ B. J. East  
Carrier Member