

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 is in behalf of former Trackman Billie Joe and E. Silversmith, Valley Division, for reinstatement to their former positions as trackmen on the Valley Division with seniority, vacation and all other rights unimpaired, and compensate them for wage loss beginning January 19, 1975 and continuing forward to the date the claimants are 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 violated the Agreement when they dismissed the claimants in that such dismissal was excessive and not justified under the facts.

The claimants were employed as trackmen for the Carrier. Neither employee had much seniority with the Company; one had been employed in December of 1974; the other had worked for a few months and then he was rehired as a trackman in January of 1975.

On January 20, 1975 the claimants were notified by certified mail to attend an investigation on February 3, 1975 to determine the facts and place the responsibility for an alleged violation of Rules 17 and 25. The claimants were aware that the investigation was being held but failed to attend.

The investigation revealed that the claimants were guilty of being careless of the safety of others. They damaged their outfit car to such an extent that it had to be scrapped. The claimants were living in the outfit car with four other trackmen.

Evidence of record indicates that the claimants had taken a can of diesel into the car to fill the tank on the heater and had apparently spilled the diesel fuel on the floor around the heater. The claimants were in the car when the fire started and apparently had been drinking and were intoxicated at the time.

The evidence of record is sufficient to find that the claimants were guilty. In view of all the evidence and the claimants' short tenure of service with the Carrier, 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