

PUBLIC LAW BOARD NO. 1582

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

STATEMENT OF CLAIM:

1. That the Carrier's decision to remove New Mexico Trackman D. L. Bradley from service was unjust.
2. That the Carrier now reinstate Claimant Bradley with seniority, vacation, all benefit rights unimpaired and pay for all wage loss as a result of investigation held 9:00 a.m., October 3, 1991, continuing forward and/or otherwise made whole, because the Carrier did not introduce substantial, creditable evidence that proved the Claimant violated the rules enumerated in their decision, and even if the Claimant violated the rules enumerated in the decision, permanent removal from service is extreme and harsh discipline under the circumstances.

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 Lubbock, Texas on September 26, 1991 concerning his alleged violation of Rule G when reporting for duty on Thursday, September 5, 1991 so as to determine the facts and place the responsibility, if any, involving possible violation of Rules A, B, G and H of the Safety and General Rules for All Employees, Form 2629 Standard.

At the request of the General Chairman, the investigation was postponed until October 3, 1991. The evidence of record establishes that the claimant was properly notified of the postponement of the investigation and the date and location of the investigation, but he did not attend. Pursuant to the investigation the claimant was dismissed from the service of the Carrier.

Section Foreman M. A. Bryam testified that he smelled a strong odor of alcohol on the claimant's breath at approximately 7:15 a.m. on the date in question. He testified the claimant was scheduled to commence work at 7:30 a.m. He also testified he called Roadmaster Kiefer, who came to Littlefield, Texas at approximately 8:30 a.m.

Roadmaster Kiefer testified that when he arrive at Littlefield, he requested the claimant and Foreman Bryam to accompany him into the office. He stated he noticed the claimant smelled very strongly of

alcohol, and as a matter of fact, it was so strong it took over the whole room. Roadmaster Kiefer stated he asked the claimant if he had been drinking that morning, and the claimant replied that he had not; however he did state he had been drinking quite a bit the night before.

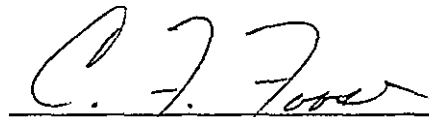
Roadmaster Kiefer then testified the claimant's language was very slurred, and it was difficult to understand him when normally he was easily understood. He also stated that normally the claimant was polite and courteous, but on this occasion, he was loud and belligerent. He also testified the claimant had had another occurrence of alcohol abuse on December 30, 1986 and had successfully completed a 30-day course of treatment at St. Mary's Hospital in Lubbock, Texas.

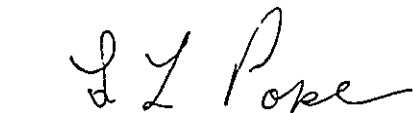
After reviewing the testimony of record, the Board finds there is no justification to overrule the decision of the Carrier.

AWARD: Claim denied.

*Dated November 15, 1991
Schaumburg, Illinois*


Preston J. Moore, Chairman


Union Member


Company Member