

PUBLIC LAW BOARD NO. 1582

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

STATEMENT OF CLAIM: Claim in behalf of former Eastern Division Trackman H. J. Shaw, for reinstatement to his former position with seniority, vacation and all other rights unimpaired and compensation for wage loss beginning June 19, 1975.

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 dismissed from the service of the Carrier for his alleged violation of Rule 16. Rule 16 reads as follows:

"Employees must obey instructions from the proper authority in matters pertaining to their respective branches of the service.

They must not withhold information, or fail to give all the facts, regarding irregularities, accidents, personal injuries or rule violations.

Employees must report for duty as required and those subject to call for duty will be at their usual calling place, or leave information as to where they may be located. They must not absent themselves from duty, exchange duties or substitute other persons in their places without proper authority."

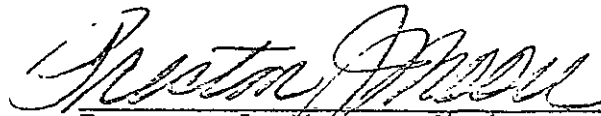
The claimant had been employed by the Carrier as a trackman on February 25, 1974. The claimant was charged with twenty demerits for violation of Rule 16 on July 23, 24 and 25 of 1974. Later that year the claimant was charged with twenty demerits for a violation of the same rule on October 3, 4, 7, 8, 16, 17 and 18. Thereafter on December 18, 1974 the claimant was again absent without authority and charged with twenty demerits.

At that time the superintendent wrote the claimant a letter advising him that he had accumulated sixty demerits and that under the Brown System when an employee acquired sixty demerits he was subject to dismissal. The claimant was further advised that if his attendance and work habits did not remain satisfactory that further action would be taken. On April 18, 1975 ten demerits were cancelled, and the claimant's record stood charged with fifty demerits.

However, the investigation involved in this dispute was scheduled for June 9, 1975 to develop the facts and place the responsibility in connection with the claimant being absent from duty without proper authority on May 20, 1975. The notice of investigation was mailed by certified registered mail to the claimant's address of record. It was not delivered, and a notice was placed by the mail carrier in the claimant's mail box on June 4, 1975 advising him the letter was being held at the post office for him to claim. A second notice was left on June 9, 1975 after the post office was unable to deliver the letter. It was returned June 19, 1975 unclaimed.

Neither the claimant nor his representative attended the investigation. At the investigation the claimant was found responsible for violating Rule 16 and was dismissed from the service of the Carrier. Under the circumstances herein there is no basis to overrule the decision of the Carrier. The claimant had only been employed for sixteen months and a substantial part of that time he had been absent without official authority.

AWARD: Claim denied.


Preston J. Moore, Chairman


Organization Member


Carrier Member