

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 Trackman J. J. Garofalo, Middle Division, for reinstatement with seniority, vacation and all other rights unimpaired and Compensation for time lost beginning July 25, 1975 continuing forward to date 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 claimant was dismissed from the service of the Carrier for his alleged violation of that portion of Rule 16 which reads as follows:

"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 did not attend the investigation although he was given notice to appear. (See Carrier's Exhibit J). The notice was signed for by the claimant. The Organization contends that the claimant had to go on an emergency to New York on July 7 and was unable to contact his foreman.

The Claimant certainly knew that he was scheduled to work and could have had some relative or some neighbor notify the foreman that he had had an emergency and request an emergency leave of absence. The claimant failed to comply with the rules of the Carrier, and the evidence is absolute. His failure to attend the investigation indicates a lack of interest in his job.

The Organization contends that permanent dismissal is too severe. The Board has examined the evidence of record and finds that claimant has about ten months of active service and has received a total of 70 demerits for four previous absences without authority. There is simply no basis to overrule the decision of the Carrier. The claimant received a notice on July 23 to attend the investigation and did not appear or request a postponement of the investigation, and under the circumstances the Board

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does not have the authority 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