

## 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 L. B. Tsosie, Albuquerque Division for reinstatement to his former position with seniority, vacation and all other rights unimpaired and compensation for wage loss beginning August 25, 1975 continuing forward until 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 claimant was dismissed from the service of the Carrier for alleged violation of being absent from duty without authority commencing August 7, 1975 and dates subsequent thereto.

Evidence of record indicates claimant was aware of his responsibility to obtain authority to lay off from his immediate supervisor when he wished to be absent from duty. Claimant had previously been disciplined for the same rule violation on two other occasions shortly after he was employed. Claimant was notified to appear at the investigation. Evidence of record leaves little doubt but that claimant was guilty as charged.

The only other issue before the Board is whether, under the circumstances, dismissal was excessive discipline. The claimant does not have a good record, but on the other hand his record is not extremely bad. Under the circumstances herein the Board finds claimant should be reinstated with seniority and all other rights unimpaired but without pay for time lost.

AWARD: Claim sustained as per above.

ORDER: The Carrier is directed to comply with this award within thirty days from the date of this award.

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

sd/ S. E. Fleming  
Organization Member

sd/ B. J. East  
Carrier Member