

PUBLIC LAW BOARD NO. 1582

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

STATEMENT OF CLAIM: That the Carrier violated the terms of the Agreement when they dismissed Trackman H. Y. Begay from service November 12, 1975, said dismissal being unjust and on charges not sustained by the record. That the Carrier now reinstate H. Y. Begay with seniority, vacation and all other rights unimpaired and that he be compensated for loss of earnings beginning November 12, 1975 continuing forward until he is reinstated 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 discharged from the service of the Carrier for an alleged violation of Rule G. A formal investigation was held and thereafter the claimant was dismissed from the service of the Carrier on November 12, 1975.

The Organization contends that the dismissal was unjust and that the charges were not sustained by the record. The Carrier contends that the evidence establishes that the claimant was guilty of violating Rule G and that under the circumstances and with claimant's poor record of service that discharge is justified.

The claimant was notified that his case was going to be heard before this Public Law Board and was advised that he was privileged to appear in person or by a representative of his choice if he so desired. The claimant did not appear, and the Union represented him in his case.

The Board has examined the evidence of record. The Track Supervisor testified that the claimant returned from Grants, where he had gone to get a saw and drill, and that the claimant returned in bad shape; his breath smelled like wine, he was unsteady on his feet and did not want to work. The Supervisor further stated he did not believe it was safe for the claimant to work. The Supervisor also testified it took the claimant approximately two hours to travel three miles to the tool house and return with the equipment.

Therefore, the evidence is convincing that the Carrier was justified in finding that the claimant violated Rule G.

The only other issue to be determined is whether the discipline assessed is unjust. The Board has examined the claimant's record with the Carrier, and it is a very poor record, including a previous dismissal. Under the circumstances the Board is not justified in overruling 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