

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 Agreement when on November 12, 1975 M. P. Verolini was removed from his position as trackman on the Los Angeles Division, such removal being unreasonable, arbitrary, discriminatory and therefore excessive. That the Carrier now reinstate M. P. Verolini to his position as trackman on the Los Angeles Division with seniority, vacation and all other rights unimpaired and compensate him for loss of earnings beginning November 12, 1975 continuing forward until such time as 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 dismissed from the service of the Carrier for allegedly absenting himself from duty without permission September 23, 1975 and dated thereafter.

The Carrier contends that the claimant was absent from duty without authority and that the investigation developed testimony clearly and conclusively establishing that the claimant was absent from duty without authority and that in view of the fact that claimant had only been an employee for ten months that the discipline which was assessed was reasonable and just.

The Organization contends that the discipline assessed by the Carrier herein was arbitrary, unjust and unreasonable.

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 this case.

The claimant testified at the investigation that he worked on September 23, although records indicate that the claimant did not work on that date. The claimant made no attempt to contact the foreman, roadmaster or time-keeper and stated that he did not know whom to call. Certainly an employee should be aware that a PBX Operator was not the person to grant him authority to be absent.

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Evidence of record indicates that the claimant was absent without authority and under these circumstances the Board is prohibited from modifying that discipline which was assessed by the Carrier. Herein the Board is unable to determine that the discipline assessed is unreasonable or unjust.

Furthermore, to reinstate the claimant herein with seniority and all other rights unimpaired would prejudice the rights of other employees who have worked continuously since the claimant was discharged by the Carrier. However, the Board does feel obligated to recommend to the Carrier that the claimant be reemployed as a new hire.

AWARD: Claim denied.

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

sd/ S. E. Fleming
Organization Member

sd/ B. J. East
Carrier Member