

PUBLIC LAW BOARD NO. 1582

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

STATEMENT OF CLAIM: Claim in behalf of former machine operator/trackman Danny Francis, Los Angeles Division, "for reinstatement to his former position with seniority, vacation and all other rights unimpaired and pay for time lost beginning February 5, 1976.

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 injured in an automobile accident on August 24, 1975 and was unable to perform his duties as a trackman. He was granted a leave of absence from August 25, 1975 through September 24, 1975.

On February 27, 1976 the Carrier held an investigation concerning the claimant's alleged failure to report for duty as a trackman on October 1, 1975. Pursuant to the formal investigation the claimant was dismissed from the service of the Carrier.

The Organization contends that the discipline assessed was harsh and excessive under the circumstances. The Organization also contends that the Carrier violated the time limit rule in that the investigation was not held within the time limit as provided by the Agreement.

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 Board has examined the transcript of record and finds that the claimant was granted a leave of absence through September 24, 1975, and that the Carrier made several attempts to contact the claimant by letter and telephone to notify him to return to work. The claimant did not attend the investigation although he had signed for and received notice that the investigation was going to be held.

Evidence indicates that the Carrier did not violate the time limit rule and offered the claimant every opportunity to return to work. There is no question but that the claimant was guilty as charged,

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and under the circumstances herein there is no evidence or justification 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