

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 Trackman Vincent M. Sanchez for reinstatement "to his former position with seniority, vacation and all other rights unimpaired and with pay for all time lost commencing on June 18, 1976 and continuing forward."

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 assessed twenty demerits for being absent from work without authority. This left the claimant's record standing with seventy-five demerits, and he was dismissed from the service of the Carrier.

The Organization contends that some of the demerits which had been assessed were not properly assessed. The Organization further contends that the discipline assessed under the circumstances was too severe. The Organization also contends that the claimant's total demerits were sixty-five instead of seventy-five.

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 be present in person or by a representative of his choice if he so desired. The claimant did appear at this hearing, and the Union represented him in this matter.

It is really immaterial whether the claimant had amassed sixty-five or seventy-five demerits. Either would subject him to dismissal by the Company, and a collateral attack may not be made at this time upon previous demerits which had been assessed. If the claimant objected to the assessment of previous demerits, he had every right and opportunity to appeal them. This he failed to do.

The claimant had only two years of service with the Carrier and had a poor record. Under the circumstances the Board finds there is no evidence or justification which would justify overruling the decision of the Carrier.

AWARD: Claim denied.

sd/ S. E. Fleming
Organization Member

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

sd/ B. J. East
Carrier Member