

PUBLIC LAW BOARD NO. 1582

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

STATEMENT OF CLAIM: Claim in behalf of former Trackman Craig A. Sizemore for reinstatement with seniority, vacation and all other rights unimpaired and compensation for any net wage loss resulting from claimant's dismissal, as result of formal investigation conducted May 23, 1977.

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 charged with damaging and appropriating Company property April 30, 1977. An investigation was held and the claimant was found guilty and discharged.


The Organization contends the Carrier violated Article 5, Section 6. The Organization also contends the claimant was denied due process and was unjustly dismissed. The Organization contends claimant was prejudged in that the Carrier determined in advance of the investigation that the claimant had, in fact, entered the bunk cars and appropriated property which did not belong to him. The Organization also points up that claimant has entered a plea of guilty to the charges levied against him by the State of Kansas in connection with the same incident and that this is severe punishment by itself and that discharge would be too severe.

The Board has examined the transcript of record and all of the allegations of the Organization and finds there is no evidence of prejudgment by the Carrier. Notice of Investigation was specific, and the questions which the officer who was holding the investigation asked were not prejudicial to claimant's rights. The evidence is substantial and justifies the Carrier reaching a conclusion that the claimant was guilty as charged.

AWARD: Claim denied.

  
Preston J. Moore, Chairman

  
Organization Member

  
Carrier Member

Dated November 27, 1978