

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 J. Valdez, Los Angeles Division "for reinstatement to his former position with seniority, vacation and all other rights unimpaired and compensation for wage loss beginning July 29, 1977 continuing forward until he is restored 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 a formal investigation was held to determine the facts and circumstances surrounding the claimant reporting an alleged injury on July 5, 1977 which he contended occurred while he was on duty July 1, 1977. The claimant was charged with violation of Rules 2, 5, 14, 16 and 31, and pursuant to the investigation was found guilty and discharged.

The Organization contends that the discharge was not justified. The Organization contends the claimant had valid justification for believing that he was injured on July 1, and furthermore the Organization contends that the claimant was harassed during the investigation. The Organization also contends that the Carrier is required to make a preliminary inquiry into incidents such as the one involving the claimant herein. The Organization further contends that the charge was vague and indefinite.

The Board has examined all of the charges of the Organization. The charge is sufficient as it states: "To develop the facts and circumstances concerning your reporting on July 5 an alleged injury which you claim occurred on July 1."

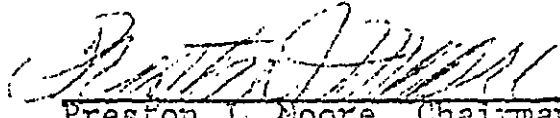
There was no necessity to hold a preliminary inquiry. It was obvious that the claimant reported an injury on July 5 which he alleged had occurred on July 1. Evidence and testimony of record indicates that the claimant contends he sustained a personal injury to his wrist on July 1, 1977, although he admits that he does not know what time of day the injury occurred. When the claimant was taken to the hospital, the examining physician stated that he had a ganglion cyst. He further stated that the cyst was not caused by any injury.


The evidence is conclusive that on July 5 the claimant reported an injury which allegedly occurred on July 1. Evidence also establishes that the claimant did not report the alleged injury on July 1. If the claimant's testimony is that he injured himself on July 1 and


failed to report the injury for four days, and such testimony is not persuasive, the claimant is filing a false injury report. Under such a set of circumstances it would be justifiable for the Carrier to find that the claimant violated the rules of the Carrier.

The Board has very carefully examined all of the Organization's allegations regarding procedural errors by the Carrier and finds no support for such charges. Under all of the circumstances herein, after a careful study of all the evidence, it is the opinion of the Board that the evidence produced does not justify overruling the decision of the Carrier.

AWARD: Claim denied.


Preston J. Moore, Chairman


Organization Member


Carrier Member

Dated November 27, 1978