

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 Howard Faust, Jr., Middle Division, for removal of 30 demerits assessed his personal record as a result of formal investigation held on September 16, 1977.

Claim in behalf of former Trackman Howard Faust, Jr., Middle Division, for reinstatement "with seniority, vacation and with all other rights unimpaired, also with pay for all wage loss that resulted from his removal effective October 11, 1977, continuing forward," account allegedly dismissed from service without benefit of a fair and impartial investigation held on October 11, 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 assessed thirty demerits pursuant to an investigation held September 16, 1977. Thereafter another investigation was held on October 11, 1977; and the claimant was dismissed from the service for an accumulation of excessive demerits.

The Board has examined the transcript of record for the first investigation and finds there was sufficient evidence to establish that the claimant was guilty of violating Rules 13, 15 and 16 of the General Rules for the Guidance of Employees. There is no evidence to support a finding that thirty demerits is harsh, arbitrary or unjust for such violation.

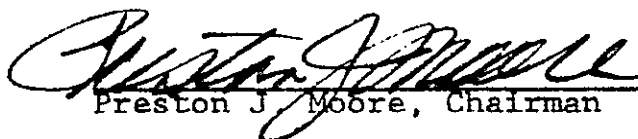
The Organization contends that the claimant was not properly notified of the change of time and date of the investigation, and therefore, was not afforded due process. The Organization also contends that the Carrier failed to conduct an impartial investigation.


Evidence indicates that the claimant's representative telephoned prior to 9:00 a.m. on September 16, 1977 and requested that the formal investigation be deferred until later that date. The investigation was postponed until 2:30 p.m. Therefore the evidence does not support a finding that the claimant was denied due process.


The claimant had a poor record and had previously been dismissed from service and had accumulated a total of eighty demerits. The

evidence, therefore, does not justify overruling the decision of the Carrier.

AWARD: Claim denied.


Preston J. Moore, Chairman


Organization Member


Carrier Member