

PUBLIC LAW BOARD NO. 2774

Award No. 68
Case No. 105

PARTIES
TO
DISPUTE

Brotherhood of Maintenance of Way Employees
and
Atchison, Topeka and Santa Fe Railway Company

STATEMENT
OF CLAIM

- "1. That the assessment of fifty (50) demerits to Trackman J. S. Debano's personal record was in violation of the agreement between the parties and in abuse of discretion.
2. That Trackman J. S. Debano be returned to his former position with seniority and all other rights restored unimpaired and that he be compensated for all wage loss suffered as a result of the violation referred to in Part 1 hereof."

FINDINGS

Upon the whole record, after hearing, the Board finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended, and that this Board is duly constituted under Public Law 89-456 and has jurisdiction of the parties and the subject matter.


Claimant herein was dismissed by letter dated August 9, 1982, for the accumulation of a total of 85 demerits. He had received 20 demerits for an absence without authority on July 7, 1982, after a formal investigation held on August 4, 1982. Further, he received 30 demerits for absence without authority on July 28, 1982. He had waived an investigation with respect to the last 30 demerits.

The Organization argues that the dismissal was improper since the assessment of 30 demerits was gross and inconsistent with the nature of the infraction. The record, however, indicates that the assessment of demerits was well within the guidelines set forth by Carrier with respect to its entire disciplinary system which permits the assessment of from five to 30 demerits for a particular infraction. Further, even assuming, arguendo, that petitioner was correct and that 30 demerits was excessive as compared to the 20-demerit assessment which immediately preceded it, this would be immaterial in the ultimate disposition of this matter. Thus, the 85-demerit accumulation was so much above the 60-demerit threshold that the exact number of demerits assessed for the final absence was really


immaterial. Under the circumstances and in view of the fact that claimant clearly violated Carrier's rules under the disciplinary program by his continued series of absences and accumulation of sufficient demerits to warrant dismissal, the Carrier's decision was well grounded. There is no basis for disturbing that decision and, therefore, the claim must be denied.

AWARD


Claim denied.



I. M. Lieberman, Neutral-Chairman



C. F. Foosé, Employee Member



G. M. Garmon, Carrier Member

Chicago, Illinois

July 23, 1984