

PUBLIC LAW BOARD NO. 1582

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

STATEMENT OF CLAIM: 1. That the Carrier violated the Agreement when on May 21, 1973 J. A. Sena was removed from his position of Trackman, New Mexico Division, without benefit of a fair and impartial investigation.

2. That the Carrier shall now reinstate J. A. Sena to his former position of Trackman with seniority and all other rights unimpaired and compensate him for wage loss suffered as a result of his removal from service May 21, 1973.

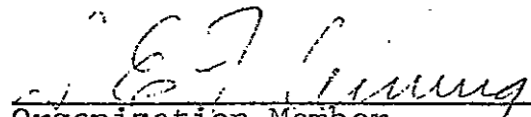
FINDINGS: This Public Law Board No. 1582 finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, and that this Board has jurisdiction.

In this dispute the claimant was notified at 9:30 a.m. on May 21, 1973 that his application for employment had been disapproved. The Carrier contends they may remove a new employee from service within sixty calendar days after the applicant begins work. The Organization contends that the sixty days had elapsed and that claimant was not given notice until the sixty-first day.

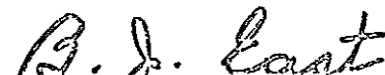
The issue in this dispute is whether you count the first day the employee commences work as one of the sixty days. The Agreement states that the Company will approve or disapprove the application within sixty calendar days after the applicant begins work. Third Division Award 19177 held that the identical language herein excludes the first day of employment and distinguished referee Bailer in Second Division Award 3545 treated the identical issue in an erudite fashion and reached the same conclusion. In view of the foregoing awards, it is the opinion of the Board that the Carrier did remove the claimant herein within the sixty calendar days as provided for in the Agreement.

AWARD: Claim denied.


Preston J. Moore, Chairman


Organization Member

September 12, 1975


Carrier Member