

AWARD NO. 108  
Case No. 127

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 W. D. Wright, Southern Division, for reinstatement to his former position as Trackman on the Southern Division with seniority, vacation and all other rights unimpaired and compensation for wage loss beginning October 20, 1978 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 the claimant was employed by the Carrier on December 1, 1975. His discipline record is as follows:

October 29, 1976	- 10 demerits for violation of Rule 15.
November 3, 1976	- 20 demerits for violation of Rule 15.
November 17, 1976	- 20 demerits for violation of Rule 15.
March 17, 1977	- 10 demerits cancelled for four months clear record.
April 26, 1977	- 10 demerits for violation of Rule 15.
August 26, 1977	- 10 demerits cancelled for four months clear record.
April 26, 1978	- 20 demerits for violation of Rule 13.
April 26, 1978	- 5 demerits removed.
August 26, 1978	- 10 demerits cancelled for four months clear record.
September 20, 1978	- 30 demerits for violation of rule 15.

This left the claimant with 75 demerits outstanding. The claimant had been notified by certified mail on June 2, 1978 that his record stood charged with 55 demerits and that 60 demerits subjected an employee to dismissal. The claimant was absent from duty without authority on September 11, 14, 15 and 17, 1978 and was assessed and signed for 30 demerits.

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The Board recognizes that the Organization contends that the claimant was coerced into signing for the 30 demerits. It is difficult to understand what coercion could occur since the claimant had to be well aware that the 30 additional demerits subjected him to discharge.

In five cases where demerits were signed for by the claimant and in one case where demerits were assessed as a result of a formal investigation, the same rules were involved. The last two instances were only four and one-half months apart.

It appears to the Board that the claimant did not accept his responsibilities in working for the Carrier. The claimant herein was notified by certified letter dated October 19, 1978 that he was to attend a formal investigation to be held at 1:00 p.m. on October 27, 1978. The letter was returned unclaimed.

Pursuant to the investigation the claimant was notified by certified letter dated October 31, 1978 of the investigating committee's decision. The letter was returned with the notation: "Moved, left no address." Those letters had been sent to the claimant's last known address listed with the Carrier.

Under the circumstances the Board finds no justification to overrule the decision of the Carrier.

AWARD: Claim denied.

  
Preston J. Moore, Chairman

  
Organization Member

  
Carrier Member