

PUBLIC LAW BOARD NO. 1582

PARTIES) ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY
TO)
DISPUTE) BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

STATEMENT OF CLAIM: That the Carrier violated the provisions of the Agreement by unjustly removing Los Angeles Terminal Division Trackman Robert Garcia from service November 6, 1978.

(2) That the Carrier now reinstate Mr. Garcia to service with seniority, vacation, all benefit rights unimpaired and compensation for all wage loss beginning November 6, 1978 continuing forward until his reinstatement.

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 advised by letter that his seniority with the Carrier had been terminated as a result of his being absent without proper authority, and if the claimant desired, he could request a formal investigation to be held within twenty days under the provisions of Article 5 of the Agreement between the Organization and the Carrier.

The claimant requested an investigation. The investigation was set for 9:00 a.m. on November 6, 1978, and neither the claimant or his representative appeared for the investigation.

At approximately 4:00 p.m. on November 6, 1978, the claimant's representative contacted the Superintendent inquiring if the investigation had been held. When advised that the investigation had been held, the representative requested that the investigation be reopened on November 9, 1978 at 10:00 a.m. in order for the claimant to be present. This procedure was agreed upon, and when the investigation opened at 10:00 a.m. on November 9, 1978, the claimant's representative was present, but the claimant did not appear.

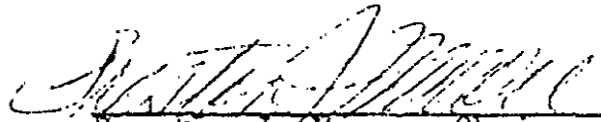
After carefully reviewing the transcript of record and Carrier's Exhibits A through L, it is the opinion of the Board that the evidence was sufficient to establish that the claimant was guilty. Under the circumstances herein there is no basis to overrule the decision of the Carrier.

AWARD: Claim denied.

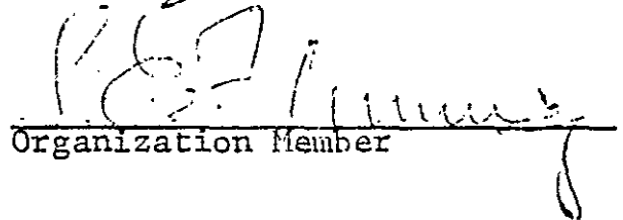
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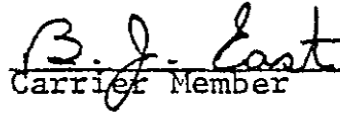
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Preston J. Moore, Chairman



Organization Member



Carrier Member

Dated April 7, 1980