

PUBLIC LAW BOARD NO. 1582

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

STATEMENT OF CLAIM: (1) That the Carrier violated the provisions of the Agreement by unjustly discharging Coast Lines-Los Angeles Terminal Division Welder R. A. Terry from service November 6, 1978.

(2) That the Carrier now reinstate Mr. R. A. Terry to service with seniority, vacation, all other benefit rights unimpaired and compensation for 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 employed by the Carrier on October 15, 1974. On October 2, 1978 the claimant was notified to attend a formal investigation to be held on October 6, 1978. The claimant was charged with falsifying Form 1665 Standard for the period from June 26 through July 25 and from July 26 through August 25, 1978, which is a violation of Rules 2, 14, 16 and 31(B).

Pursuant to the investigation, the claimant was discharged from the service of the Carrier. The Organization appealed the claim and presented this case before the Board.

In addition to the transcript, the Carrier submitted Exhibits A through K to be considered by the referee.

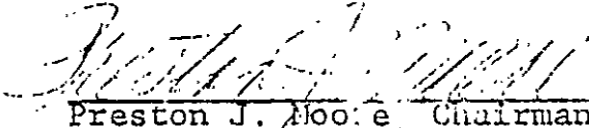
The claimant admitted that he had falsified the receipts. Claimant explained that he received the hotel receipts improperly but he believed that such would offset his driving costs. The claimant believed he was entitled to hotel expense, if he had actually stayed there, and under the circumstances, he was not actually defrauding the Carrier of monies.

There is no question but that the actions of the claimant herein are extremely serious and ordinarily would constitute grounds for discharge. However, it is the opinion of the arbitrator that the claimant actually believed he was entitled to be reimbursed in this manner.

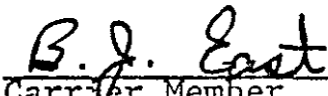
Although the claimant was not entitled to such reimbursement, it is the opinion of the referee that permanent dismissal in this case is too severe, and for that reason finds that the claimant should be reinstated with seniority and all other rights unimpaired but without pay for time lost.

AWARD: Claim sustained as per above.

ORDER: The Carrier is directed to comply with this award within thirty days from the date of this award.


Preston J. Moore, Chairman


Organization Member


Carrier Member

Dated at Chicago, Illinois this 7th day of April, 1980