

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 Miscellaneous Machine Operator M. J. Gilliland, Plains Division, for reinstatement to service with seniority, vacation and all other rights unimpaired, and compensation for wage loss beginning September 29, 1979, 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.

The claimant herein was employed by the Carrier in 1975, and after resigning, was re-employed February 3, 1977. As of January 19, 1979 the claimant's record stood charged with 55 demerits. The Carrier contends the claimant did not report for work on July 16, 17, 18 and 19, 1979 and charged time on his time sheet as though he had been working on those dates. Pursuant to an investigation, the claimant was found guilty of violating Rules 752A and 752C.

There are a number of factors involved in this case which are not necessary to discuss. After carefully reviewing all of the evidence and testimony, it appears there may have been other factors considered in assessing discipline. The Board recognizes the Brown System of Demerits, but under the circumstances in this particular case, the Board finds that the result herein is harsh, arbitrary and unjust. Therefore the Board finds the claimant should be reinstated with seniority and all other rights unimpaired but without pay for time lost, and with forty-five (45) demerits on his record.

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