

AWARD NO. 151

CASE NO. 185

PUBLIC LAW BOARD NO. 1582

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

STATEMENT OF CLAIM:

(1) That the Carrier's decision to assess claimant E. J. McDade's record with ten (10) demerits as result of investigation held Temple, Texas on July 10, 1981 was improper because the evidence reported in the investigation does not sustain the charges and even if the charges were proven the discipline assessed was excessive.

(2) That claimant McDade's record be expunged of 10 demerits and his personal record be expunged of all references thereto.

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 charged with being late for work by approximately one hour. Pursuant to the investigation the Carrier assessed the claimant ten demerits for being late to work.

The evidence of record indicates that the claimant was aware that the investigation was going to be held on July 10, 1981 at 9:00 a.m. Evidence was introduced that the claimant was aware the investigation was being held and so notified Supervisor A. L. Gardner as late as July 8, 1981 that he was aware of the time and date of the investigation. At 9:03 a.m. the investigation was recessed until 9:30 a.m. to allow the claimant time to appear.

The claimant failed to appear for the investigation, and evidence was taken which sustained the charge that the claimant was late to work by approximately one hour. Under all the facts and circumstances existing herein, there is no justification for setting aside the discipline which was assessed.

AWARD: Claim denied


Preston J. Moore, Chairman


Organization Member

