

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 remove claimants Gaiters, Duncan and Blair from service was unjust because the evidence recorded at the investigation did not sustain the charges and even if the evidence did sustain the charges, the amount of discipline (permanent removal) proposed by the Carrier is harsh and excessive.

2. That the Carrier now reinstate claimants to service with seniority, vacation, all benefit rights unimpaired and pay for all wage loss beginning August 21, 1981, continuing forward and/or otherwise made whole.

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 three claimants were employed as trackmen and on July 31, 1981 were working the job site at Mile Post 4.5 in the Dallas District.

The claimants were charged with leaving the job site without proper authority and failing to comply with the instructions from their foreman to return to work.

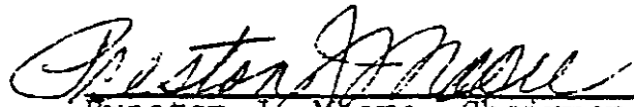
There is a great deal of conflict in the testimony. The foreman testified that he did not give the claimants authority to leave, and in fact, advised them they had some joints that had to be spotted by hand before a train arrived.

However, the claimants testified that the foreman did not specifically tell them they could not leave, but in fact told them if they left they had to walk to their car.

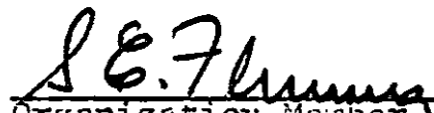
After reviewing the entire transcript and all of the testimony, it is the opinion of the Board that some discipline was justified, but permanent discharge is too severe. Therefore the Carrier is directed to reinstate the claimants with seniority and all other rights unimpaired but without pay for time 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

  
Carrier Member

  
Organization Member