

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's decision to remove claimant Irwin from service was unjust because the evidence recorded at the investigation does not sustain the charge and even if the evidence did sustain the charge, the amount of discipline (permanent removal) proposed by the Carrier is harsh and excessive.
2. That the Carrier now reinstate claimant to service with seniority, vacation, all benefit rights unimpaired and pay for all wage loss beginning August 14, 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 claimant trackman was charged with refusing to place tie plates as assigned and leaving work without permission on July 10, 1981 while working on Extra Gang No. 31 east of Belleville, Texas.

The claimant was notified to attend an investigation to be held on August 14, 1981 at 1:00 p.m. The claimant failed to appear for the investigation.

R. H. Gilley, the Student Foreman, testified that on July 10, 1981 the claimant was working on Extra Gang No. 31 under his supervision and that at approximately 7:00 a.m. on that date the claimant walked up to him and said: "You will have to get someone else to replace me," and when asked why, the claimant stated: "Because I am tired of digging for the plates and having to set them."

Student Foreman Gilley further testified that the claimant then began walking down the road, and he followed the claimant and asked him to talk to Foreman Johnson about the situation, but the claimant replied that he would not. This witness testified that he twice more asked the claimant to talk to Foreman Johnson and advised the claimant that walking off the job was a serious offense and could be punished by discharge. Student Foreman Gilley testified that the claimant then said he was leaving regardless and left in his automobile.

Under all of the circumstances involved in this case, there is no justification to set the discipline aside.

AWARD: Claim denied.

  
Preston J. Moore, Chairman

  
Organization Member

  
Carrier Member