

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 assessment of thirty (30) demerits to Southern Division Trackman M. W. Engbrock as result of investigation held December 18, 1981 was unjust.
2. That the Carrier expunge thirty (30) demerits from Mr. Engbrock's personal record and that he be paid wage loss and expenses incurred attending the investigation December 18, 1981, because the record does not contain substantial evidence which would indicate that he (claimant) violated Rules 10, 15 and 16, General Rules for the Guidance of Employees, Form 2626 Standard, and even if the record did contain substantial evidence indicating that he (claimant) violated the aforementioned rules, assessment of thirty (30) demerits is excessive and harsh discipline under the circumstances.

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 leaving his job without proper authority near west end Mullen near M.P. 224, Lampasas District about 11:00 a.m. on November 12, 1981 while assigned as a trackman on Extra Gang 71, and the report of his allegedly standing on main line while a train was going east on a siding and the train approaching from the west on main line. The formal investigation was held on December 18, 1981, and the claimant was assessed thirty demerits.


The claimant testified that he left work at approximately 11:00 a.m. on November 12, 1981, and the reason he left was because the foreman was harassing him.

The Board has read all of the testimony of every witness and has carefully reviewed the testimony of the claimant himself. It should be sufficient to state that the evidence is clear and convincing that the claimant was guilty of all charges, and there was no reasonable cause for the claimant to leave his work without obtaining the authority from his foreman. Further the evidence is not persuasive that the foreman was harassing the claimant.

Under the circumstances there is no justification for setting aside the discipline which was assessed by the Carrier.

AWARD: Claim denied.

  
Preston J. Moore, Chairman

  
Organization Member

  
Carrier Member