

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 dismiss Claimant M. L. Poole from service as result of investigation held February 2, 1981 is unjust.
2. That the Carrier now reinstate Claimant Poole to his former position with seniority, vacation, all benefit rights unimpaired and pay for all wage loss beginning February 9, 1982 continuing forward and/or otherwise made whole because a review of the investigation transcript reveals that substantial evidence was not introduced on record which indicated that Claimant Poole was guilty of violating Rule 16 of the General Rules for the Guidance of Employees, 1978, this substantiated by his case being dismissed in Hutchinson County Court, February 3, 1982, even if the record contained substantial evidence which indicated that claimant violated Rule 16, General Rules for the Guidance of Employees, 1978, the Carrier's decision to remove Claimant is excessive and harsh discipline.

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 notified to attend an investigation concerning his arrest on charges of indecent exposure and unlawful carrying of a weapon. Pursuant to the investigation the claimant was found guilty of violation of Rule 16 of the General Rules for the Guidance of Employees and was dismissed from the service of the Carrier. Rule 16 reads in part:

"Employees must not be indifferent to duty, insubordinate, dishonest, immoral, quarrelsome or vicious. Employees must conduct themselves in a manner that will not bring discredit on their fellow employees or subject the Company to criticism or loss of good will."

The claimant testified that he pled guilty to the charge of indecent exposure and not guilty to the charge of carrying an unlawful weapon. The status of the charge of carrying an unlawful weapon was not resolved, and the Board finds no fault with the claimant for carrying a knife it was as the claimant described it.

However, the other charge of indecent exposure is one which constitutes guilt of violating the rules of the Carrier. 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

Dated at Chicago, Illinois
April 23, 1982