

PUBLIC LAW BOARD NO. 1582

PARTIES) THE 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 Plains Division Trackman Boyd L. Jones, Jr. from service was unjust.

2. That the Carrier now reinstate Claimant with seniority, vacation, all benefit rights unimpaired and pay for all wage loss beginning July 21, 1982 continuing forward and/or otherwise made whole, because the Carrier did not introduce substantial evidence that proved the Claimant violated the rules enumerated in their decision, and even if Claimant violated the rules enumerated in the decision, permanent removal from service is extreme 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 notified to attend a formal investigation at Clinton, Oklahoma on July 6, 1982 concerning his responsibility for not reporting to his assignment on June 26, 1982 and his absenting himself from his assignment on June 20, 21, 22, 26 and 27, 1982. Pursuant to the formal investigation the claimant was found guilty of violating Rules 15 and 16 and was removed from service.

The claimant was employed on July 31, 1978, and at the time of his discharge was working on the Clinton Section Gang.

Section Foreman R. W. Darnell testified that the claimant was absent on June 21, 22, 26, 27, 28, 29, 30 and July 1 and 2. He further testified that the claimant had strict orders to be present at work on those days, but he never showed up for work. He also testified that he specifically instructed the claimant to work on June 26 because they were working on a derailment in order to get the tracks back into service.

Another trackman, R. Youngblood, testified that he heard the foreman instruct the claimant to work on Saturday, June 26.

Roadmaster B. G. Moler testified that the claimant requested permission to be off work on Saturday, June 26 but he instructed the

claimant that he would have to work that day since he needed every man because of the derailment. The roadmaster also testified that the claimant was absent from work without authority on June 20, 21, 22, 23, 27, 28, 29, 30 and July 1 and 2.

Evidence establishes that the claimant was properly notified of the investigation but failed to appear and no representative appeared on his behalf.

Under the circumstances there is no justification for setting the discipline aside.

AWARD: Claim denied.

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Preston J. Moore, Chairman

SE7 Manning  
Organization Member

W. L. Carmon  
Carrier Member