

PUBLIC LAW BOARD NO. 1582

PARTIES) ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY
TO)
DISPUTE) BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

STATEMENT OF CLAIM: That the Carrier's decision to remove Northern Division Trackman G. E. Ross from service was unjust.

That the Carrier now reinstate claimant with seniority, vacation, all benefit rights unimpaired and pay for all wage loss beginning December 2, 1982 continuing forward and/or otherwise made whole, because the Carrier did not introduce substantial evidence that proved that 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 a notice to attend a formal investigation was sent by certified mail to claimant's last address listed with the Carrier, but delivery was not effected by the Post Office although evidence indicates delivery was attempted on three different dates, October 20, October 25 and November 5. The letter was returned undelivered. The claimant did not attend the investigation.

Evidence establishes that during the period of time from July 15, 1982 through September of 1982 the claimant was employed by outside firms and signed for unemployment in July, August and September. The Board is not absolutely certain what portions of Rules 2 and 16 the claimant violated, but the evidence indicates that claimant did violate the last two paragraphs of Rule 16, and such violation would constitute a violation of Rule 2.


In the opinion of the referee the charge letter of October 18, 1982 should have been a little more specific. Since the claimant did not see fit to attend the investigation, there is no justification for setting the discipline aside.

AWARD: Claim denied.


Preston J. Moore, Chairman


Organization Member

February 8, 1983
Chicago, Illinois


Carrier Member