

PUBLIC LAW BOARD NO. 1582

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

STATEMENT OF CLAIM: Claim that former Trackman S. G. Effinger, Middle Division, be reinstated to service with seniority, vacation, all benefit rights, pay for wage loss and/or otherwise made whole, account unjustly terminated.

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 there are two claims involved. In the first claim the claimant was notified to attend an investigation where he was charged with a possible violation of Rules 14, 16 and 17 of the General Rules for the Guidance of Employees. The claimant was charged with throwing water on another employee on August 5, 1981 which resulted in personal injury to the other employee.

The Board has examined the facts of record in the first claim, and the testimony of the claimant wherein he admitted he threw cold water on the employee which resulted in the other employee losing part of a tooth. The claimant was assessed thirty demerits. Under the circumstances there is no justification for overruling the decision of the Carrier.

In the second claim the claimant was charged with absenting himself from duty without proper authority on August 12, 14 and 17, 1981, being vicious and quarrelsome toward his foreman and on August 17, 1981 being under the influence of drugs and intoxicants.

An investigation was held, and the claimant was found in violation of Rules 13 and 15 on August 12, in violation of Rule 6 on August 14, and in violation of Rules 6 and 16 on August 17, 1981.

The Board has examined the transcript of record and all of the testimony therein. The evidence is sufficient for the Carrier to reach a finding of guilt. The claimant was notified by certified mail that the investigation would be held on Monday, August 31, 1981 but failed to appear. There is no justification for setting the discipline aside.

AWARD: Claim denied.

Preston J. Moore  
Preston J. Moore, Chairman

S E Fleming  
Organization Member

A. Berman  
Carrier Member