

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 assess claimant twenty (20) demerits after investigation May 26, 1983 was unjust.
2. That the Carrier now expunge twenty (20) demerits from the claimant's record, reimbursing him for all wage loss and expenses incurred as a result of attending the investigation May 26, 1983 because a review of the investigation transcript reveals that substantial evidence was not introduced that indicates claimant is guilty of violation of rules he was charged with in the Notice of Investigation.

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.

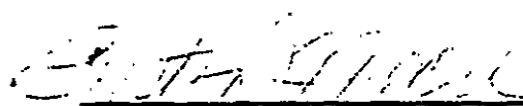
In this dispute the claimant was charged with being absent from his assigned duties and involved in a motor vehicle accident at McDonald's Restaurant at approximately 7:40 a.m. on Monday, May 9, 1983, and with possible violation of Rules C, F, K, L, 751, 752(A), 752(B), 752(C), 1299 and 300 of the Rules Maintenance of Way and Structures Operating Department, Form 1015 Standard. Pursuant to the investigation the claimant was found guilty of violating rules C, 751, 752(A) and 752(B) and was assessed 20 demerits.

The evidence establishes that the claimant was the assistant section foreman on Section 12 on May 9, 1983 and was scheduled to report for duty at 7:00 a.m. The evidence further establishes that the claimant had been given instructions in the past that after going to work he was not to stop for food, drink or coffee. The verbal instructions were followed with written instructions to employees who had problems understanding the verbal instructions.


The claimant admitted that he had received verbal instructions, as well as reading written instructions, that he was not to obtain coffee after the beginning of his shift. Consequently there can be no doubt but that the claimant was in violation of Rule C as charged.

However, the evidence does not establish a violation of Rule 752(A) and 752(B) and perhaps a portion of Rule 751. However, the violation of Rule C is sufficient under the circumstances to justify discharge. The evidence establishes that it became necessary for the Carrier to issue written instructions regarding this matter, but the claimant herein continued to disregard those written instructions. Under those circumstances there is no justification for setting the discipline aside.

AWARD: Claim denied.

  
Preston J. Moore, Chairman

  
Organization Member

  
Carrier Member

Dated August 16, 1983 at Chicago, Illinois