

PUBLIC LAW BOARD NO. 1582

PARTIES) 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 Rael's record ten (10) demerits after an investigation July 25, 1983, resulting in an over-accumulation of demerits, and removal from service effective July 25, 1983, was unjust.

2. That the Carrier now expunge ten (10) demerits from claimant Rael's record, reimburse him for all wage loss commencing July 25, 1983 continuing forward and all expenses incurred as a result of attending the investigation July 25, 1983, and/or otherwise made whole, because a review of the investigation transcript reveals that substantial creditable evidence sufficient to warrant the Carrier's action, does not prevail.

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, L. A. Rael, was assessed 10 demerits for his failure to report for duty on time on June 27, 1983. The 10 demerits placed the claimant with a total of 65 demerits which constitutes grounds for discharge under the system used by this Carrier.

The claimant had been notified on June 24, 1982 that his personal record stood charged with a total of 55 demerits.

The claimant's foreman testified that on June 27, 1983 claimant was assigned to his gang and reported for work 30 minutes late. The claimant testified that it was approximately 10 minutes before 8:00 when he reported for work, although he was required to report at 7:30. The claimant testified that he was late because he had to return and get his wallet.

The claimant was asked the Question: "What caused you to check your wallet after you reached Las Animas?" Answer: "Just to check to see if I had any money, to see if I had a driver's license, because I was going to drive once we turned around." The claimant admitted there would have been no need to turn around if he had not forgotten his wallet.

The claimant admitted that he reported for work a minimum of 18 minutes late. This evidence establishes a violation of Rule 2. The Board has no authority to set aside the 10 demerits for such a violation. Those demerits brought the claimant's accumulated demerits to over 60, and the Board has no authority to reinstate an employee who has accumulated 60 demerits. Under the circumstances the Board has no authority to set the discipline aside.

AWARD: Claim denied.

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Preston J. Moore, Chairman

C. F. Fune  
Organization Member

J. M. Carmon  
Carrier Member

Dated at Chicago, Illinois  
September 13, 1983