

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 Sweat's record twenty (20) demerits after an investigation August 5, 1983 was unjust.
2. That the Carrier now expunge twenty (20) demerits from claimant Sweat's record, reimbursing him for all wage loss and expenses incurred as a result of attending the investigation August 5, 1983 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 was notified to attend a formal investigation on August 5, 1983. The claimant was charged with being absent without authority on July 7, 1983.

The claimant admitted that he did not have authority to be absent on July 7 and was absent from duty on that date. He testified that he had an emergency which arose after he went off duty on July 6, and further, he attempted to call the foreman of his extra gang. The claimant also testified that he attempted to call the depot but was unable to reach the foreman at that location either.

Another witness testified that the claimant called and attempted to get the foreman's phone number, but that information was not available.

The foreman testified that he had recently been divorced, and although his number was not listed in the telephone book, it could have been obtained by calling information.

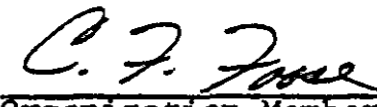
Under all of the circumstances herein it is the opinion of the Board that discipline is not justified. The Carrier is directed to remove the twenty demerits from the claimant's record and to pay him for the wage loss and expenses incurred, as provided for in the agreement between the parties.

AWARD: Claim sustained as per above.

ORDER: The Carrier is directed to comply with this award within thirty days from the date of this award.



Preston J. Moore, Chairman



Organization Member



Carrier Member

October 19, 1983
Chicago, Illinois