

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 thirty (30) demerits after investigation September 30, 1983 was unjust.
2. That the Carrier now expunge thirty (30) demerits from the claimant's record, reimbursing him for all wage loss and expenses incurred as a result of attending the investigation September 30, 1983, because a review of the investigation transcript reveals that substantial, creditable 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 notified to attend a formal investigation in the Division Engineer's Office at San Bernardino, California at 9:00 a.m. on September 30, 1983. The claimant was charged with consumption of alcoholic beverages while in the outfit car at Goffs, California. Pursuant to the investigation the claimant was found guilty and was assessed 30 demerits for being in violation of Rule 14, General Rules for the Guidance of Employees, Form 2626 Standard, 1978.

The evidence establishes that the claimant was a gang foreman on September 1, 1983. One of the employees under him and another employee came into the outfit car at Goffs, California and opened two cans of beer in his presence.

The claimant took no action and failed to admonish the employees regarding drinking beer until two days later when he advised them there would be no more beer in the outfit car. Apparently this statement was made to the employee who worked under the claimant herein.

The evidence establishes that the claimant was guilty, but it is the opinion of the Board that 30 demerits is too severe discipline for the offense committed herein. The Carrier is directed to reduce the demerits assessed to 15 demerits.

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

Dated at Chicago, Illinois
December 12, 1983