

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 Los Angeles Division Trackman R. P. Chapron's record twenty (20) demerits after an investigation December 14, 1983, resulting in an over-accumulation of demerits and removal from service effective December 14, 1983 was unjust.

2. That the Carrier now expunge twenty (20) demerits from Trackman Chapron's record, reimburse him for all wage loss commencing December 14, 1983 continuing forward, and all expenses incurred as result of attending the investigation December 14, 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 exist.

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 without proper authority on November 14 and 15, 1983 from Extra Gang 67 at Needles, California. An investigation was held on December 14, 1983 and pursuant to the investigation the claimant was found guilty and was assessed 20 demerits. Thereafter the claimant was removed from the service of the Carrier for an over-accumulation of demerits.

The claimant contends that he had received permission to be off on Monday, November 14, 1983. The claimant testified that he called on Saturday morning, November 12, 1983 and talked to someone in the office who agreed to notify them that he would not be working Monday.

The claimant further testified that he called Mr. Ernest Martin on Monday before noon to verify that he got his message. The claimant then testified that he reported for work on November 15 but did not have a safe place to leave his luggage, and although they offered to allow him to take his luggage with him, he insisted that it be locked up in the outfit car, and for that reason he stayed with his luggage and did not work on November 15.

Ernest Martin, Chief Clerk to Division Engineer at San Bernardino, testified that the claimant never called him on Monday, November 14, and that he never talked to him about his absences. He testified

that he was aware that the claimant had called the Roadmaster's Clerk on Monday between 10:00 and 10:30 a.m. and made a request to change his displacement that he had made on Friday, November 11, and also requested to lay off. Mr. Martin further testified that the claimant was advised he must contact the Roadmaster's Office at Needles to lay off.

Barbara Fry, Roadmaster's Clerk, testified she received a call from the claimant on November 14 between 10:00 and 10:30 a.m. She testified the claimant had placed a bump on Friday, November 11 and asked if he could change the bump because he had no way to get to Needles since Greyhound was on strike. She testified she advised claimant he could not do so and gave him the Roadmaster's telephone number and area code at Needles and further advised the claimant that he had to lay off with the Roadmaster since she could not take a lay off from a trackman.

Ms. Fry also testified that she received a second call from the claimant on Tuesday, November 15, and she then advised him that he had to lay off with the Roadmaster at Needles and gave him the name of Dennis Jones. She further testified that she received no information from any other person regarding a telephone call on Saturday.


D. D. Jones, Roadmaster at Needles, testified that Extra Gang 67 was assigned to his territory on November 14 and 15 and that the claimant was assigned to Extra Gang 67 on those dates but was not present for duty. He further testified that he did not give the claimant authority or permission to be off work on those dates. He stated that his foreman reported to him that the claimant did not report for work on those days.

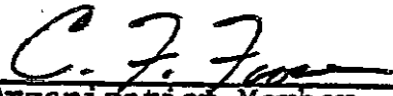
The claimant later stated that he was in Los Angeles on November 14 and 15 and that he reported on Wednesday morning, November 16, at Needles.

After reviewing all of the evidence the Board finds that there is no justification for overruling the decision of the Carrier. The claimant was absent without authority and under the circumstances 20 demerits is not excessive.

From reading the record it is apparent the claimant wants to work, and it is always refreshing to find an individual who is anxious to work. For that reason it is recommended to the Carrier that the claimant be re-employed. However, this constitutes only a recommendation and does not carry any weight of authority.

AWARD: Claim denied.

  
Preston J. Moore, Neutral

  
Organization Member

  
Carrier Member

Dated February 6, 1984  
at Chicago, Illinois