AWARD NO. 259
Case No. 291

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 remove Kansas City Division Trackman V. S. Tripp from service was unjust.

2. That the Carrier now reinstate Claimant Tripp with seniority, vacation, all benefit rights unimpaired and pay for all wage loss as a result of investigation held December 9, 1983 continuing forward and/or otherwise made whole, because the Carrier did not introduce substantial, creditable evidence that proved that the Claimant violated the rules enumerated in their decision, and even if Claimant violated the rules enumerated in the decision, permanent removal from service is extreme and harsh discipline under the circumstances.

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 to develop the facts and place responsibility in connection with the possible violation of General Rules 2, 14 and 16 of General Rules for the Guidance of Employees, 1978, Form 2626 Standard, concerning review of his personal record and alleged indifference to duty and not following instructions to improve his work attendance which resulted in alleged excessive absenteeism prior to and including November 29, 1983.

Pursuant to the investigation the claimant was removed form the service of the Carrier for violation of General Rules 14 and 16, of General Rules for the Guidance of Employees, 1978, Form 2626 Standard.

The claimant was employed on August 1, 1977. The claimant was discharged for excessive absenteeism. The claimant had been repeatedly disciplined for being absent without authority. On June 12, 1981 the claimant was reinstated an in a conference during the reinstatement, he was advised that his problem of absenteeism and failure to report for duty was very serious. The claimant had several further absences without proper authority for which he received discipline and during the last five months that he worked, from July through November of 1983, there were 87 working days and the claimant was absent 26 days with permission.

The employees must be aware that simply because they call in and get permission to be off, such does not justify their continued absences from work. The Employer is entitled to an employee who is present a substantial portion of the time. The Carrier could not afford to operate if a substantial number of its employees only worked 75 percent of the time. Under the circumstances herein there is no justification for setting the discipline aside.

AWARD: Claim denied.

Preston J. Moore, Chairman

Organization Member

Carrier Member