

PUBLIC LAW BOARD NO. 1582

PARTIES) ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY
TO)
DISPUTE) BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

STATEMENT OF CLAIM: Claim in behalf of former Trackman T. Yazzie, Albuquerque, Division, for reinstatement to his former position with seniority, vacation and all other rights unimpaired and compensation for wage loss beginning April 5, 1974.

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 dismissed for violation of Rules 3, 7, 16, 17 and 34. The claimant in this case was assigned to an Extra Gang which had concluded their assignment at Grants, New Mexico and was instructed to move over the week end to Aguila, Arizona and commence work at the new location on Monday.

On Monday the claimant did not appear for duty but he had a very good excuse -- he had been in jail and unable to report for work. On Sunday the claimant was arrested in Winslow, Arizona. He entered a plea of guilty and was fined \$105.00 plus \$10.00 costs. He requested permission to go get the money, and the court has never seen him since.

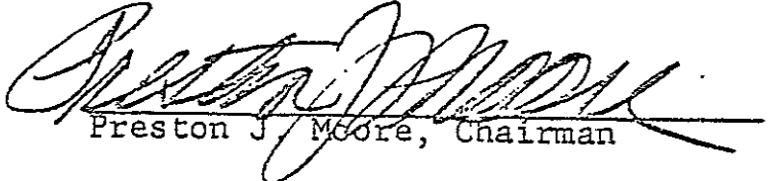
On Monday the claimant was arrested in Flagstaff, Arizona and charged with driving while intoxicated and not being in possession of a driver's license. The next day the claimant entered a plea of guilty and was fined \$110.00 while driving in an intoxicated condition and \$38.50 for driving without a driver's license. He again requested permission to go to his home to get the money, and Flagstaff has not seen him since. The claimant was instructed to report for work on Tuesday but failed to do so.

There is no question but that there is ample evidence that claimant is guilty of the charges. The only issue before the Board is whether or not the discipline assessed is too severe.

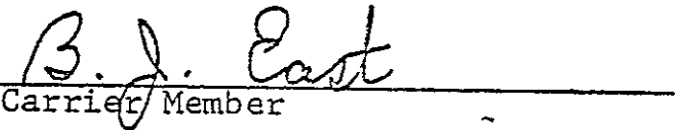
The claimant has a number of years of seniority but had been removed from service on three previous occasions. Also he had resigned on March 7, 1972 after being absent without authority for over 30 days. Coupled with the fact that the claimant did not appear for the investigation indicates he is not seriously interested in working.

On the foregoing basis the Board finds no justification to reduce the discipline assessed.

AWARD: Claim denied.


Preston J. Moore, Chairman


Organization Member


Carrier Member