

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 Plains Division Trackmen C. J. Pierson, F. G. Calzada, G. C. Rivera, F. E. Cain, G. D. Hoyos, S. Loreda, J. V. Moreno, I. G. Sanchez and G. B. Aguilar from service was unjust.

2. That the Carrier now reinstate Claimants Pierson, Calzada, Rivera, Cain, Hoyos, Loreda, Moreno, Sanchez and Aguilar with seniority, vacation, all benefit rights unimpaired and pay for all wage loss as a result of investigation held January 25, 1984 continuing forward and/or otherwise made whole, because the Carrier did not introduce substantial, creditable evidence that proved that the Claimants violated the rules enumerated in their decision, and even if claimants 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 claimants were notified to attend a formal investigation concerning their alleged involvement with the consumption of alcoholic beverages in Bunk Car AT-203191, on Company property at Alpine, Texas on the evening of November 30, 1983 and an alleged fight that took place in the bunk car at approximately 2:30 p.m. on December 1, 1983.

Pursuant to the investigation the claimants were found guilty and discharged from the service of the Carrier. The Board has examined the 46 pages of testimony and after reviewing all the evidence, finds that there is sufficient evidence for the Carrier to find that the claimants were guilty. Discipline is justified for all the claimants, however, the evidence indicates that more serious discipline is justified for claimants C. J. Pierson, F. G. Calzada and G. C. Rivera.

It is the finding of the Board that anything in excess of six months is too severe and therefore, at the end of the six months period of time, on their date of termination, the Carrier is directed to reinstate them with seniority and all other rights unimpaired.

Claimants, F. E. Cain, G. D. Hoyos, S. Loreda, J. V. Moreno, I. G. Sanchez and G. B. Aguilar deserve some discipline, however, their

acts are not as serious as the other three claimants, therefore, the Carrier is directed to reinstate them with seniority and all other rights unimpaired without pay for time lost.

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