AWARD NO. 261
Case No. 304

PUBLIC LAW BOARD NO. 1582

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

STATEMENT OF CLAIM: That the Carrier's decision to assess the claimant, K. J. Slowe, 30 demerits after investigation April 10, 1984 was unjust. That the Carrier now expunge 30 demerits from claimant's record, reimbursing him for all wage loss and expenses incurred as a result of attending the investigation April 10, 1984 because a review of the investigation transcript reveals that substantial 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 charged with leaving work early without proper authority and claiming time not actually worked and for falsifying timesheet and pocket timebook, while employed as Group 5 Machine Operator, near Skull Valley, Arizona. An investigation was held April 10, 1984, and pursuant to the investigation, the claimant was assessed 30 demerits for his responsibility in claiming time not actually worked and being absent without authority and falsifying timesheet and pocket timebook on February 23, 1984, in violation of Rule C 752(a), 752(C), and 77c of Rules, Maintenance of Way and Structures.

The claimant testified that he was employed as Group 5 Operator, working near Skull Valley, Arizona on February 23, 1984. He testified that his assigned hours were 7:00 a.m. to 3:30 p.m., but that he left work at 2:30 p.m. because he had the "stomach flu and I was bad sick and I couldn't feel that I could work any longer, so I went home and I went to bed."

The time-keeping documents that the claimant completed for the last half of February indicated that he had claimed 8 hours and 2 hours overtime on February 23, 1984. The claimant later testified that Wednesday, February 22, he was off at 2:30 because he was sick.

Mr. Minkevich testified that he was a Work Equipment Maintainer and that on February 23 he was instructed to go to Skull Valley and repair the claimant's scraper. He testified that he was unable to locate the claimant, that he worked on the claimant's machine that day and Friday and the following Monday.

Mr. W. N. Smith, Assistant Division Engineer, Albuquerque Division, testified that the claimant admitted to him that he did in fact leave early on February 23. He testified that that conversation took place on February 29. He further testified that he checked the claimant's timesheet copy, his overtime sheet copy and his pay record on the time-pay detail sheet, and the claimant did in fact charge and was paid for a full day's wages on the 23rd, and three hours overtime. He also testified that he examined the claimant's overtime log and that for February 22 he showed working three hours overtime and eight hours at regular pay.

Roadmaster D. S. Guillen also testified his attempts to determine the facts in this dispute. He was allowed to testify to some hearsay testimony, over an objection. The objection should have been sustained and the hearsay testimony should have been stricken, however, the hearsay testimony involved herein was irrelevant and did not pertain to the claimant's guilt.

The testimony is sufficient for the Carrier to find that the claimant was guilty as charged. Under the circumstances, there is no justification to overrule the decision of the Carrier.

AWARD: Claim denied.

Preston J. Moore, Chairman

Union Member

Carrier Member