

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 on behalf of Colorado Division Trackman R. J. Werick, seniority date April 13, 1978, for reinstatement with seniority, vacation, all rights unimpaired and pay for all wage loss commencing August 3, 1983, continuing forward and/or otherwise made whole.

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 claiming an on-duty injury July 22, 1983, and an attempt to cause damage to Company property, Garden City, Kansas, on July 22, 1983.


The evidence of record establishes that on the date in question, July 22, 1983, fellow employees heard the claimant state, "Today is the day," and that the claimant had exclaimed, "my back, my back," and would reach back and hold his back. The employees testified that this was a standing order of business with the claimant and that he meant that his back was going to go out. On the date in question, the claimant contended that his back was injured and he was taken to a doctor. The claimant later admitted that he placed two spikes behind a Company vehicle which would have damaged or ruined the tires of the vehicle when it was backed up. He also stated that he would not make any claim for lost time because of the alleged injury.

After reviewing the entire transcript of record and the evidence of the claimant's fellow employees, the Board finds that there is sufficient evidence for the Carrier to find the claimant guilty of several rule violations. Under the circumstances, there is no justification to set the discipline aside.

AWARD: Claim denied.

  
Preston J. Moore, Chairman

  
Union Member

  
Carrier Member