

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 dismissal of Trackman M. A. Myers was in violation of the Agreement, without just and sufficient cause and in abuse of discretion; that Mr. M. A. Myers now be reinstated to the service of the Carrier with seniority, and all other rights restored and with compensation for all wage loss suffered as a result of the violation.

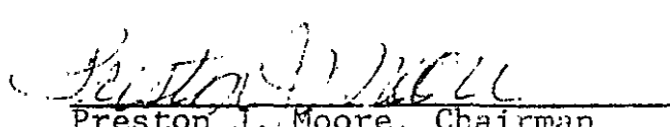
FINDINGS: This Public Law Board No. 1582 finds that the parties herein are Carrier and employee within the meaning of the Railway Labor Act, as amended, and that this Board has jurisdiction.

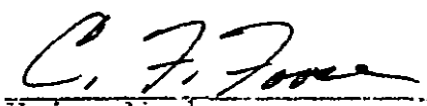
In this dispute the claimant was employed in 1979 as a Trackman on the Carrier's Eastern Division. On November 18, 1983 the claimant signed a waiver to a formal investigation and accepted 20 demerits. On November 29, 1983, the Carrier's Superintendent notified the claimant that he had 65 demerits of record and he was dismissed from service of the Carrier. A claim was filed by the Union alleging that the claimant's record should have stood at 55 demerits, instead of 65, and that the claimant should not have been dismissed.

The Board has examined the evidence of record and finds that the Organization's position is correct. The claimant, of course, under the rules, is not entitled to credit during the time he is laying off account personal injury or personal illness, furloughed, on leave of absence, or out of service. Since the claimant did not have 60 demerits, the claim will be sustained. The claim is valid.

AWARD: Claim sustained.

ORDER: The Carrier is directed to comply with this award within thirty days from the date of this award.

  
Preston J. Moore, Chairman

  
Union Member

Dated at Chicago, Illinois  
September 18, 1984

 - Dissenting  
Carrier Member