

PUBLIC LAW BOARD NO. 1532

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

STATEMENT OF CLAIM: That the Carrier's decision to assess Claimant J. V. Ramirez 20 demerits after investigation July 9, 1984 was unjust; That the Carrier now expunge 20 demerits from Claimant Ramirez' record, reimbursing him for all wage loss and expenses incurred as a result of attending the investigation July 9, 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 notified to attend the formal investigation in Fresno, California on July 9, 1984. He was charged with being absent without proper authority on June 6, 1984, in violation of Rule 15. Pursuant to the investigation, the claimant was found guilty and assessed 20 demerits. The claimant appeared at the investigation and stated that he would like to proceed without a representative.

The claimant testified that he did in fact fail to call the Roadmaster or his foreman, as required. He did in fact call an office in Fresno. This information was not relayed to the Roadmaster until about one hour and ten minutes after he was scheduled to report for work. The claimant attempted to call his foreman the night before, and apparently was unable to do so.

The Board has examined the evidence and transcript of record and it suggests that the discipline assessed is too severe. A letter of warning should be issued to the claimant, advising him that more serious discipline will follow if he does not properly report when he anticipates being absent. The letter further should explicitly state to whom he should report such intended absences. The Carrier is directed to remove the 20 demerits from the claimant's file and to enter the warning letter.

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
Preston J. Moore, Chairman

C. F. Finner
Union Member

McCarmon - Dissenting
Carrier Member

Dated at Chicago, Ill
October 22, 1984