

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: That the Carrier's decision to suspend Albuquerque Division Trackman B. Chischillie from his position for 60 days was unjust; that the Carrier now lift the suspension from Claimant Chischillie's record as a result of investigation held September 21, 1984 because the Carrier did not introduce substantial, creditable evidence that proved that the claimant violated the rules enumerated in their decision, and even if claimant violated the rules enumerated in the decision, suspension as Trackman 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 claimant was notified to attend the formal investigation at Winslow, Arizona, September 21, 1984. The claimant was charged with striking Trackman K. T. Gaddy, August 30, 1984. Pursuant to the investigation, the claimant was found guilty and assessed 60 days suspension.

The testimony has been read and considered. The claimant had requested two witnesses to be present and apparently, they had agreed to appear at the investigation and testify on his behalf. After reviewing the testimony of the witnesses, any statement or evidence which they would have presented would have been immaterial. The claimant himself testified that he struck another employee in the face with his forearm. From the claimant's testimony, there was no justification nor any excuse for the claimant's behavior. Certainly, an employee of 30 years should know that it is a serious rule violation to strike another person. It makes no difference whether it is a fellow employee or a supervisor.

The Board might only assess 30 days suspension for this infraction; however, that is not the Board's prerogative. The Board's only prerogative is to determine if the discipline assessed is harsh, arbitrary or unjust. One cannot say that 60 days is excessive.

AWARD: Claim denied.


Preston J. Moore, Chairman


Union Member

Dated at Chicago, Illinois
November 12, 1984


Carrier Member