

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 in behalf of Trackman A. Martinez for reinstatement to his former position with seniority, vacation and all rights unimpaired and compensation for wage loss beginning August 6, 1974.

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 had acquired 60 demerits in violation of Rule 16 and was notified to attend an investigation on August 2, 1974. The claimant acknowledged receipt of the Notice of Investigation but did not attend the investigation.

The Assistant Chairman-Secretary-Treasurer of the Brotherhood of Maintenance of Way Employees appeared at the investigation but was not permitted to represent the claimant. The representative requested a transcript of the hearing but was refused.

The investigation was not held at 10:00 a.m. as presented in the Notice, but was delayed until 11:55 a.m. The General Chairman had remained in the Division Engineer's Office where the hearing was to take place until that time.

The Organization contends that by refusing the Assistant Chairman the right to represent the claimant that the Carrier violated the provisions of the Railway Labor Act and the Agreement.

If the claimant had notified the Carrier or had provided his representative an authority in writing to represent him at the hearing, the employee's representative could have remained in the hearing and could have cross-examined witnesses and been authorized to participate in the proceedings in a normal manner even in the absence of the claimant.

The Board has reviewed the evidence of record and finds no justification to overrule the decision of the Carrier. The claimant had 60 demerits and there is no basis to overrule any of those decisions. The claimant had been an employee for a few months in 1971 and then had been re-employed in October of 1973. In the next nine months he had been absent from work without authority on three separate occasions for an extended period of time.

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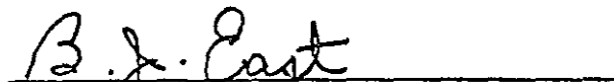
Award No. 29

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WARD: Claim denied.


Preston J. Moore, Chairman


Organization Member


Carrier Member