

PUBLIC LAW BOARD NO. 1582

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

STATEMENT OF CLAIM: That the Carrier's decision to assess Claimants Middle (Old Oklahoma) Division B&B Foreman W. M. Webster, B&B Helper Truck Driver G. A. Schultz, and B&B Helper B. D. Brashears with 30 demerits each after investigation November 8, 1984 was unjust; That the Carrier now expunge 30 demerits from each Claimant's record, reimbursing them for all wage loss and expenses incurred as a result of attending the investigation November 8, 1984 because a review of the investigation transcript reveals that substantial evidence was not introduced that indicates Claimants are guilty of violation of rules they were 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.

The claimants were notified to attend an investigation in Oklahoma City, Oklahoma, November 8, 1984 to determine their responsibility, if any, in connection with possible violation of Rule 16, General Rules for Guidance of Employees, Form 2626 Standard, Rules 12 and 366, Safety Rules for Santa Fe Employees, Form 2629 Standard, concerning their alleged failure to place boom on Truck AT 38251 in proper position, resulting in damage to boom and injury to two employees on October 15, 1984. Pursuant to the investigation, the claimants were found guilty and each was assessed 30 demerits.


The Union contends that the decision was unjust and should be set aside. The Union contends that the evidence is insufficient to establish that the claimants were guilty of a violation of the rules charged in the Notice of Investigation. The transcript of record has been studied and all the testimony reviewed. The evidence indicates that the claimants knew, or should have known, that the boom was not in its cradle. B&B Foreman W. M. Webster had more responsibility than the other claimants. He was also charged with violation of Rule 1172.

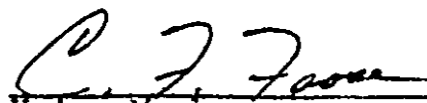
After careful consideration, it is the opinion of the Board that 30 demerits is justified in his case. However, the responsibility is not as great for the other two claimants, and for that reason the discipline assessed them will be reduced to 20 demerits. The Carrier is directed to reduce the demerits of claimants G. A. Schultz and B. D. Brashears to 20 demerits.

AWARD: Claim disposed of 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, Chairman


Union Member


Carrier Member

Dated at Chicago, Illinois
January 14, 1985