

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: Claim that former Trackman Moses Marshall, Los Angeles Terminal Division, be reinstated to his former position with seniority, vacation and all benefit rights restored and compensation for all wage loss and/or otherwise made whole beginning November 17, 1983 continuing forward until claimant is restored to his former position, account removed from service for accumulation of excessive demerits in violation of Rule 31-h General Rules for the Guidance of Employees.

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 by letter dated May 24, 1983 that he would be reinstated effective June 1, 1983 on a leniency basis and his outstanding demerits would be reduced to 45. By letter dated November 16, 1983 the claimant was notified that he had been assessed 20 demerits pursuant to a formal investigation held November 15, 1983 and that the assessment resulted in the accumulation of a total of 65 demerits. The letter then advised the claimant that his employment was being terminated.

The Organization contends that the Carrier violated Rule 13 and Appendix 11 of the current agreement. The Board has examined the evidence of record and the record establishes that the claimant was reinstated June 1, 1983 with his record standing at 45 demerits. He was charged with being absent from duty without proper authority on August 25 and 26, 1983. Pursuant thereto he was found guilty. He failed to have a period of four months and thus did not receive the credit of ten demerits. The Board has previously held that under these circumstances there is no violation of Rule 13 and Appendix 11 of the Agreement.

AWARD: Claim denied.

  
Preston J. Moore, Chairman

  
Union Member

  
Carrier Member