

AWARD NO. 307
Case No. 341

PUBLIC LAW BOARD NO. 1582

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

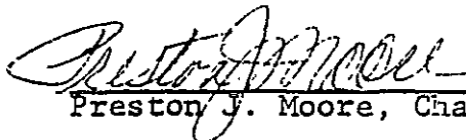
STATEMENT OF CLAIM: Claim for reinstatement of former Machine Operator Charles Trevino, Jr. Southern Division, with seniority, vacation, and all benefit rights restored and compensation for all wage loss and/or otherwise made whole beginning March 27, 1984 continuing forward until claimant is restored to his former position.

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 March 27, 1984, that his seniority and employment with the Carrier was being terminated due to his being absent without proper authority. The claimant was further notified that he could request a formal investigation within twenty days from the date of the notice.

The Organization contends that the claimant requested an investigation and that the same be postponed because he was incarcerated at the Texas Department of Corrections and would not be released for 60 to 120 days. The Carrier contends there is no record of the claimant ever requesting a formal investigation and further, there was no reason even if he were incarcerated that such a request could not have been made. Award No. 9859 of the Second Division of the National Railroad Adjustment Board has held that an employee's incarceration does not constitute an unavoidable absence. After reviewing the record, the Board finds no justification for setting the decision of the Carrier aside.

AWARD: Claim denied.


Preston J. Moore, Chairman


Union Member


Carrier Member

Dated at Chicago, Illinois
April 12, 1985