

PUBLIC LAW BOARD NO. 1582

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

STATEMENT OF CLAIM: That the Carrier's decision to assess Claimant D. R. Polk twenty demerits after investigation September 4, 1985 was unjust; That the Carrier now expunge twenty demerits from Claimant D. R. Polk's record, reimbursing him for all wage loss and expenses incurred as a result of attending the investigation September 4, 1985 because a review of the investigation transcript reveals that substantial evidence was not introduced that indicates Claimant is guilty of violation of rules he was 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.

In this dispute the claimant was notified by letter dated August 26, 1985 to attend a formal investigation at Amarillo, Texas, on September 4, 1985, concerning his allegedly reporting to work late at Wellington on August 19, 1985, and to determine the facts and place the responsibility, if any, in possible violation of Rule 752(A), Rules, Maintenance of Way and Structures, Form 1015 Standard. Pursuant to the investigation, the claimant was found guilty and assessed twenty demerits for being late to work, in violation of Rule 752(A), Rules, Maintenance of Way and Structures, Form 1015 Standard.

L. D. Gawthrop, Roadmaster at Harper, Kansas, testified the claimant was under his supervision on August 19, 1985, and on that date the claimant's assigned hours were 8:00 a.m. until 4:30 p.m. He testified that the claimant called at 7:50 a.m. and reported he would be late. At the time the claimant called, he was approximately seventy miles from his assignment. The Roadmaster then testified that the claimant did not report for work on that date.

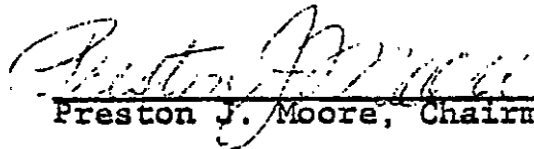
The claimant testified that he was assigned to report for duty at 8:00 a.m. and reported to his assignment at approximately 8:30 or 8:45 a.m. The claimant testified he was driving at night and went into a pretty good rainstorm, so he pulled over and went to sleep, which caused him to be late.

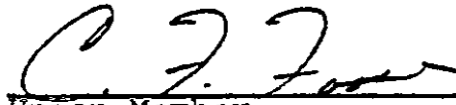
The Board has reviewed the testimony of record and finds that the discipline assessed is too severe. The claimant was late to work only thirty or forty-five minutes, and he made every effort

to call and advise his foreman that he would be late. Under the circumstances, ten demerits are all that are justified. The Carrier is directed to reduce the demerits to ten demerits.

AWARD: Claim sustained 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