

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 position to disqualify Middle Division Machine Operator A. Castillo from his position as Class A Burro Crane Operator after investigation June 13, 1986 was unjust; That the Carrier now lift the disqualification from Claimant Castillo's record as a result of investigation held June 13, 1986, reimbursing him for all wage loss and expenses incurred as a result of attending the investigation June 13, 1986, 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 Carrier notified the claimant to attend an investigation at Newton, Kansas, June 13, 1986 at 9:00 a.m. to develop the facts and place his responsibility, if any, in connection with possible violation of Rules 2, 12, 21, and 230, Safety Rules for Santa Fe Employees, Form 2629 Standard, and Rules 1040, 1041, and 1042, Rules Maintenance of Way and Structures, Form 1015 Standard, concerning his allegedly striking overhead power line at Miltonvale, Kansas, on May 12, 1986, and striking an overhead power line two times at Weber, Kansas, on December 20, 1985, and January 9, 1986.

Pursuant to the investigation, the claimant was found guilty and was disqualified as a Class A Machine Operator because he struck a 7200 volt power line with a Burro Crane boom on Strong City Subdivision.

The claimant testified that on May 12, 1986, he was operating Burro Crane AT-1773 on the elevator track at Miltonvale, Kansas. He stated that while he was operating the Burro Crane, the boom struck an overhead power line and that as he was trying to get away from the power line, he hit the edge of the car and bent the boom. He further testified that he did not put the machine out of service on the 12th, but did do so on the 13th, when Mr. Brickell instructed him to wire it out of service.

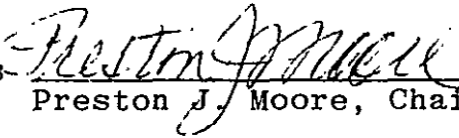
Assistant Division Engineer J. A. Yarbrough testified that the crane should not have been used after it was bent. He stated that it was prohibited by the rules.

Trackman D. L. Delforge testified that the boom was bent while the claimant was operating the Burro Crane. He also testified that there was contact made between the boom and the power line.

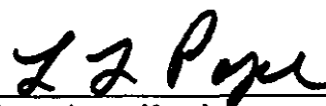
The claimant has a poor discipline record, and under the circumstances there is no justification for setting the discipline aside.

AWARD: Claim denied.

Dated at Chicago, Illinois
July 25, 1986


Preston J. Moore, Chairman


Union Member


Carrier Member