

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:

1. That the Carrier's decision to remove Albuquerque Division Trackman James Goldtooth from service was unjust.
2. That the Carrier now reinstate Claimant Goldtooth with seniority, vacation, all benefit rights unimpaired and pay for all wage loss as a result of investigation held 9:05 a.m. February 21, 1986 continuing forward and/or otherwise made whole, because the Carrier did not introduce substantial, creditable evidence that proved that the claimant violated the rules enumerated in their decision, and even if Claimant violated the rules enumerated in the decision, permanent removal from service is extreme and harsh discipline under the circumstances.

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 to attend a formal investigation at Winslow, Arizona on February 3, 1986 concerning his alleged violation of Rule 6, General Rules for the Guidance of Employees, Form 2626 Standard at approximately 10:20 a.m. on January 24, 1986 while on Company property at Peach Springs, Arizona. Pursuant to the investigation the claimant was found guilty and removed from the service of the Carrier.

The investigation was postponed until February 21, 1986 at 9:00 a.m. at Winslow, Arizona. At 9:05 a.m. on Friday, February 21 Local Chairman Gilliam requested a postponement. The claimant did not appear, and the request for a postponement was refused because of the lateness of the request.

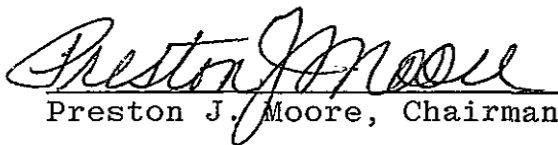
Rule 6 involves the use of alcoholic beverages, intoxicants, narcotics, marijuana and other controlled substances by employees who are subject to duty.

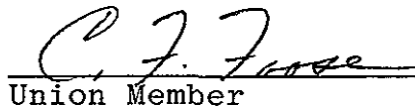
Roadmaster R. L. Hanno testified that he was called by Foreman Garcia who said he had a problem that he could not discuss over the radio. He stated that he met with Foreman Garcia at the tool house at Peach Springs and was advised that one of his trackman was passed out in the bunk car.

Roadmaster Hanno testified that he contacted Assistant Roadmaster Mejia to meet with him at the tool car. He stated that he and Roadmaster Mejia went into the bunk car, and the claimant was passed out on his bunk. He testified they had an interpreter with them who could interpret Navajo. He further testified that the claimant was in a drunken state, but they finally got him partially awake and advised him he was being removed from service. He then testified: "There was no doubt in my mind whatsoever that the claimant was under the influence of intoxicants."

After reviewing the evidence of record, there is no justification for setting the discipline aside.

AWARD: Claim denied.


Preston J. Moore, Chairman


Union Member

*Dated at Chicago, Illinois
June 1, 1987*


Carrier Member