

PUBLIC LAW BOARD NO. 1582

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

STATEMENT OF CLAIM:

1. Carrier's decision to remove former Colorado Division Trackman T. B. Espinosa from service effective September 2, 1986 was unjust.

2. Accordingly Carrier should be required to reinstate claimant Espinosa to service with his seniority rights unimpaired and compensate him for all wages lost from September 2, 1986.

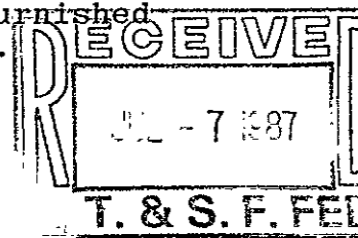
FINDINGS: This Public Law Board No. 1582 finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, and that this Board has jurisdiction.

In this dispute the claimant was charged with failure to follow instructions and to provide medical documentation to support his request to remain headquartered at Englewood, Colorado under hardship circumstances for one week, June 23 to June 27, due to his child undergoing surgery, and for possible falsification of personal injury and making false reports alleging a personal injury on June 27, 1986 at Castle Rock, Colorado and allegedly making a false report of same on July 11, 1986 in possible violation of Rules 2, 5, 14, 16, 30 and 31(B), General Rules for the Guidance of Employees, Form 2626 Standard.

The claimant failed to appear at the formal investigation, and pursuant thereto was found guilty of falsification of personal injury and failure to provide documentation of his child's surgery as requested by Division Engineer Hallows.

Foreman E. J. Hernandez testified that the claimant was assigned to his section on June 27, 1986. He testified that at no time during that day did the claimant advise him that he was hurt. He further testified that the claimant was driving spikes with a spike mall on that date, and he believed the claimant would have been unable to perform this service if he had an injured back.

Division Engineer W. K. Hallows testified that the claimant called him and requested to be allowed to continue working at Englewood for a week under an emergency request. He testified that he advised the claimant that it would be permissible, but he must provide documentation. He stated that the claimant never furnished him with any documentation regarding the child's surgery.

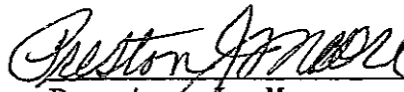


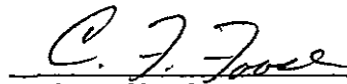
Mr. Hallows also testified that the claimant called and advised him on July 11, 1986 that he had sustained a personal injury. He then testified that the Carrier received a report from Dr. Gordon which stated that his first examination of the claimant was made on June 30, 1986, and the patient had stated that he fell down, landing on his back, while playing volleyball on June 29, 1986.

Mr. Hallows then testified that the claimant had filed a Travelers' Insurance claim and gave the cause of injury as "fell on back playing volleyball." He stated that off duty injury was marked on the same form. He further stated that on July 11, 1986 the claimant advised him that he wanted to file a claim for injury with the Company, and the claimant filled out Form 1421 Standard. He then testified that he allowed the claimant to fill out this form but advised him that he had the Travelers' Insurance form which had been filled out by the claimant indicating that he had fractured his back as a result of falling while playing volleyball.

The transcript and all of the exhibits have been examined by the Board. The Board finds no justification to overrule the decision of the Carrier.

AWARD: Claim denied.

  
Preston J. Moore, Chairman

  
Union Member

*Dated at Chicago, Illinois  
July 21, 1987*

  
Carrier Member