

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 Albuquerque Division Track Foreman P. J. Chavez from service effective February 24, 1986 was unjust.

Accordingly Carrier should be required to reinstate claimant Chavez to service with his seniority rights unimpaired and compensate him for all wages lost from February 24, 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 notified to attend a formal investigation at Winslow, Arizona on March 14, 1986 concerning his alleged violation of Rule G, Maintenance of Way and Structures, effective October 27, 1985, Form 1015 Standard while on duty on Company property on Monday, February 24, 1986 at Parker, Arizona.

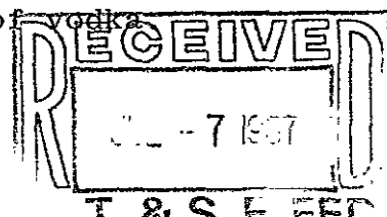
Pursuant to the investigation the claimant was found guilty and was dismissed from the service of the Carrier. At the time of his dismissal the claimant had fifty demerits of record.

The Union objected to the investigation being held in Winslow, Arizona when the incident occurred in Parker, Arizona which is approximately 365 miles from Winslow. The claimant did not object to the hearing being held in Winslow; therefore, there is no error and no reasonable complaint thereafter.

The Union also contended that the charge was not precise in that it did not specify which particular part of Rule G was violated. After reviewing the charge, it is the opinion of the Board that it is sufficient to charge the employee with violation of Rule G.

The claimant, P. J. Chavez was first called by the Carrier. The Union objected to his being called as a witness. The Board finds that the Carrier is entitled to call the claimant as a witness.

Roadmaster D. S. Guillen testified that he observed the claimant in his personal vehicle at PDQ Liquor Store at Parker, Arizona at about 8:15 a.m. the morning of February 24, 1986. He testified that he went with the claimant to his vehicle where the claimant invited him to look in his ice cooler. He stated that there he found a can of orange juice and approximately a pint of vodka.



He stated that at that time he withheld the claimant from duty for violation of Rule G. He stated that it was on Company property, but he admitted the bottle of vodka was sealed.

Machine Operator E. J. Marcotte testified that he saw claimant go to the liquor store, come out with a package, and he observed the Roadmaster and the claimant go to the claimant's Bronco and the claimant handing the Roadmaster a lunch pail, and he saw the Roadmaster produce a bottle and a can from the lunch pail. He identified the can as orange juice and the bottle as a pint of liquor.


The claimant admitted he had the bottle of vodka on Company property.

The Board has studied the entire transcript of record, as well as the exhibits submitted by the parties. There is no question but that there is sufficient evidence for the Carrier to find the claimant guilty of violating Rule G. As this referee has noted many times, this offense has become a much more serious breach of rules with so many accidents occurring on railroads.

The record indicates that the claimant had previous been dismissed from the service of the Carrier for a similar violation. The Carrier was justified in reaching a decision that the claimant was guilty as charged.

AWARD: Claim denied.


Preston J. Moore, Chairman


Union Member

*Dated at Chicago, Illinois
July 21, 1987*


Carrier Member