

PUBLIC LAW BOARD NO. 1582

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

STATEMENT OF CLAIM: 1. That the Carrier's decision to remove Los Angeles Division Trackman Mario Martinez from service was unjust.

2. That the Carrier now reinstate Claimant Martinez with seniority, vacation, all benefit rights unimpaired and pay for all wage loss as a result of investigation held 9:00 a.m., July 28, 1987 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 the 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 in Los Angeles, California on July 28, 1987. The claimant was charged with being absent from duty without proper authority commencing June 10, 1987 and with the possible violation of Rules 2 and 15, General Rules for the Guidance of Employees, 1978, Form 2626 Standard.

Pursuant to the investigation the claimant was found guilty of violating Rules 2 and 15 and was removed from service. Claimant was notified by letter dated June 19, 1987 that he could request an investigation under the provisions of Rule 13 of the current Maintenance of Way Agreement. However, the evidence establishes that the formal investigation was held, but the claimant did not appear.

There is sufficient evidence for the Carrier to find that the claimant was guilty as charged. There is no justification for setting the discipline aside.

AWARD: Claim denied.

Preston J. Moore
Preston J. Moore, Chairman

Dated at Chicago, Illinois
September 15, 1987

C. J. Foose
Union Member

L. J. Pope
Carrier Member