

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 Southern Division B&B Mechanic J. O. Kelley from service was unjust.
2. That the Carrier now reinstate Claimant Kelley with seniority, vacation, all benefit rights unimpaired and pay for all wage loss as a result of investigation held 10:20 a.m., August 10, 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 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 in Temple, Texas on Friday, July 24, 1987 to develop the facts and place the responsibility concerning a report that the claimant had allegedly shot and killed his wife and that he was absent without proper authority since July 6, 1987 in possible violation of Rules L, 604 and 607, Rules Maintenance of Way and Structures.

Pursuant to the claimant's request for a postponement, the investigation was postponed from July 24, 1987 to August 10, 1987. The investigation was held on August 10, 1987, but claimant was not present.

The evidence submitted at the investigation was sufficient for the Carrier to find that the claimant was absent without proper authority since July 6, 1987. The evidence does not establish that the claimant was guilty of violating Rule L or Rule 607. In other words, there is no admissible evidence of record that the claimant shot and killed his wife.

However, the evidence does establish that the claimant was absent from duty without proper authority, and such justifies the discipline assessed by the Carrier.

AWARD: Claim denied.

Preston J. Moore
Preston J. Moore, Chairman

Dated at Chicago, Illinois
September 15, 1987

C. F. Foose
Union Member

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Carrier Member