

PUBLIC LAW BOARD NO. 1582

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

STATEMENT OF CLAIM: That the Carrier now reinstate J. L. Richard to his former position with seniority, vacation and all other rights unimpaired and compensate him for wage loss beginning February 3, 1975 continuing forward to date that he is restored to service.

Claim in behalf of Jerry Lee Richard for reinstatement to his former position with seniority, vacation and all other rights unimpaired and compensation for wage loss beginning April 28, 1975 continuing forward to date he is restored to service.

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 claimant was discharged from the service of the Carrier for insubordination on January 28, 1975 and the improper use of the Company's communication system in violation of Rule 752(b) and 755. Claimant was discharged pursuant to an investigation of February 3, 1975 and was reinstated on a leniency basis without pay for time lost on March 3, 1975.

On April 7, 1975 another formal investigation was conducted to determine facts and place responsibility in connection with claimant allegedly having appropriated gasoline from a Company vehicle and a possible violation of Rule 756 and with being absent from duty without authority March 17 through March 31, 1975.

A study of the record indicates that claimant had been assessed 50 demerits during his nine months of service. Although the Organization alleges that the Carrier was unfair, partial and was guilty of prejudgment in conducting the investigation, a study of the record indicates the evidence was sufficient to find claimant was guilty as charged. Under the circumstances claimant's record does not justify a finding that the discipline assessed was harsh, arbitrary or unjust. On the foregoing basis there is no support for the claim.

AWARD: Claim denied.

sd/ Preston J. Moore  
Preston J. Moore, Chairman

sd/ S. E. Fleming  
Organization Member

sd/ B. J. East  
Carrier Member