

PUBLIC LAW BOARD NO. 1582

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

STATEMENT OF CLAIM: Carrier's decision to remove former Kansas City Division Machine Operator S. P. McElhinny from service, effective June 5, 1987, was unjust.

Accordingly, Carrier should be required to reinstate Claimant McElhinny to service with his seniority rights unimpaired and compensate him for all wages lost from June 5, 1987.

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 Kansas City, Kansas on June 5, 1987 to develop the facts and place the responsibility, if any, in connection with his possible violation of Rules 2 and 15, General Rules for the Guidance of Employees, Form 2626 Std., and Rule 604 of Rules Maintenance of Way and Structures, concerning his allegedly reporting late for work without authority on May 22, 26, 27 and 28, 1987 while assigned as Machine Operator on Extra Gang 80.

The claimant testified that he was late for work on May 22 by 30 to 35 minutes; on May 26 by 40 to 45 minutes; on May 28 by 10 to 15 minutes. The claimant's extra gang foreman testified that on May 22 the claimant was late by 30 minutes, on May 27 was late by 30 minutes and on May 28 was late by 30 minutes.

Assistant Roadmaster D. A. Hansen testified that he was working with extra gang 80, and the claimant was late by approximately 30 minutes on May 22, about one hour on May 26 and approximately 30 minutes on May 27 and May 28.

The Board has carefully reviewed all of the testimony and evidence of record. The claimant has been employed by the Carrier for approximately ten years.

In view of all the circumstances involved herein, it is the opinion of the Board that permanent dismissal is too severe. The Carrier is directed to reinstate the claimant with seniority and all other rights unimpaired but without pay for time lost. The claimant's record will stand at 50 demerits on his reinstatement.

AWARD: Claim sustained as per above.

ORDER: The Carrier is directed to comply with this award within thirty days from the date of this award.

Preston J. Moore
Preston J. Moore, Chairman

C. F. Foss
Union Member

L. J. Pope
Carrier Member

Dated at Chicago, Illinois
January 18, 1988