

PUBLIC LAW BOARD NO. 1582

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

STATEMENT OF CLAIM:

1. That the Carrier's decision to remove Illinois Division Trackman D. G. Carranza from service was unjust.
2. That the Carrier now reinstate Claimant Carranza with seniority, vacation, all benefit rights unimpaired and pay for all wage loss as a result of investigation held May 13, 1988 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 the 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 an investigation in Ft. Madison, Iowa on May 6, 1988 to develop the facts and place the responsibility, if any, for allegedly being absent without permission since March 4, 1988 in possible violation of Rule 13, General Rules for the Guidance of Employees, Form 2626 Std., as amended. Pursuant to the investigation the claimant was found guilty and was dismissed from the service of the Carrier.

Helen Faeth, Chief Clerk to the Division Engineer, testified that the claimant had an approved leave of absence until March 4, 1988. She testified she called the claimant and told him it was necessary that he have a formal leave of absence with a supporting statement from his doctor.

Ms. Faeth then testified the claimant told her he would have his son call her back, and when the son called, she advised him of the same thing. She stated this communication was in mid-February. She further testified that on March 1, 1988 she again reminded the claimant of the necessity to get a leave of absence, and she then stated they later gave him an opportunity in March to attend the investigation.

Ms. Faeth further testified that the claimant finally sent his leave of absence papers to the office after the letter had gone out to him stating that he would be removed from service.

Under the circumstances herein permanent dismissal is harsh, arbitrary and unjust. The Board finds that the claimant should be reinstated to service with seniority and all other rights unimpaired but without pay for time lost. The reinstatement will be subject to a proper physical examination as required by the Agreement.

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.

*Dated at Chicago, Illinois
August 18, 1988*


Preston J. Moore, Chairman


Organization Member


Carrier Member