

PUBLIC LAW BOARD NO. 1582

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

STATEMENT OF CLAIM: Carrier's decision to remove Former Plains Division Trackman S. D. Sumner from service, effective July 16, 1987, was unjust.

Accordingly, Carrier should be required to reinstate claimant Sumner to service with his seniority rights unimpaired and compensate him for all wages lost from July 16, 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 Amarillo, Texas on June 24, 1987 concerning his allegedly being on Company property in the parking lot at the Lubbock RFO with alcohol beverages in his possession and giving false and misleading information in connection with this possible rule violation on July 15, 1987 at approximately 4:50 p.m. and possible violation of Rules 6, 14 and 16 of the General Rules for the Guidance of Employees, 1978.

Pursuant to the investigation the claimant was found guilty and was dismissed from the service of the Carrier.

The Board has reviewed all of the testimony and evidence of record. The evidence is sufficient for the Carrier to find that claimant was guilty of violating Rule 6, which includes a prohibition on the possession of alcoholic beverages on Company property. The Board questions whether there was any violation of Rules 14 and 16.

The evidence in this case reveals that the claimant went with a couple of other employees to pick up his pay check, and he had a can of beer between his legs.

Under the circumstances 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.

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

*Dated at Chicago, Illinois
August 18, 1988*

C. F. Fagan
Organization Member

L. Z. Pope
Carrier Member