

PUBLIC LAW BOARD NO. 1582

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

STATEMENT OF CLAIM:

1. That the Carrier's decision to assess claimant H. Mescal thirty (30) demerits after investigation of June 28, 1988, was unjust.

2. That the Carrier now expunge thirty (30) demerits from the claimant's record, reimbursing him for all wage loss and expenses incurred as a result of attending the investigation of June 28, 1988 because a review of the investigation transcript reveals that substantial evidence was not introduced that indicates claimant is guilty of violation of rules he was charged with in the Notice of Investigation.

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 at Winslow, Arizona on June 22, 1988 concerning alleged violation of Rules 1, 2 and 13, General Rules for Guidance of Employees, Form 2626 Std., 1978 when he was allegedly absent without proper authority on May 23, 24 and 25, 1988 while employed as a trackman on the Arizona Division.

The investigation was commenced on June 22, 1988 and reconvened until June 28, 1988. Pursuant to the investigation the claimant was found guilty and was assessed 30 demerits.

The Board has examined the transcript of record and finds that the claimant did not appear at the investigation. The Personnel Clerk testified that the claimant did not report for work on May 23, 24 or 25, 1988.

The record then indicates that at 11:41 a.m. on June 22 claimant appeared at the Division Office, and the investigation was reconvened in order to take the claimant's testimony.

On June 22 the claimant stated he did not have a representative present but wished to proceed with the investigation. The claimant admitted that he had consumed some alcoholic beverage that morning. The claimant was advised that the hearing officer

did not believe it was proper to continue the investigation since the claimant was apparently under the influence of alcohol. The claimant said "O.K." The investigation was then recessed until June 28. Again the claimant did not appear.

Under the circumstances existing herein the Board finds that 30 demerits is not excessive.

AWARD: Claim denied.

Preston J. Moore
Preston J. Moore, Chairman

*Dated at Chicago, Illinois
August 18, 1988*

C. J. Fosse
Organization Member

L. Z. Pope
Carrier Member