

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 J. H. Custer twenty (20) demerits after investigation of June 13, 1988 was unjust.

2. That the Carrier now expunge twenty (20) demerits from claimant's record, reimbursing him for all wage loss and expenses incurred as a result of attending the investigation June 13, 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 a formal investigation at Winslow, Arizona on May 24, 1988 concerning his alleged violation of Rules A, B, 600 and 1020, Rules Maintenance of Way and Structures, Form 1015 Std., effective October 28, 1985 when he allegedly failed to follow the instructions of Roadmaster Vaughn on May 3, 1988 by taking SF hi-rail vehicle AT-92613 off Company property while he was off duty, while employed as Track Inspector on the Albuquerque Division.

The investigation was postponed until June 13, 1988. Pursuant to the investigation the claimant was found guilty and was assessed 20 demerits. The Board has examined the transcript of record and the evidence submitted.

The claimant, who was employed as a track inspector, testified he removed a hi-rail assigned to his position from Company property on the evening of May 3, 1988. He testified that he had permission from Paul A. Vaughn to do so.

The claimant stated that he had left the hi-rail at the depot and it had been vandalized, and after that time Mr. Vaughn told him he did not have any objections to his taking the hi-rail home. He also testified that Mr. Vaughn instructed him to let Miss Teri Williams know that he had done so. He stated that if he took the Company vehicle home, he would be charged \$3.00 per day. He also testified he had been taking the hi-rail home for approximately a year to a year and one-half.

Roadmaster Paul Vaughn testified that he had never given the claimant permission to take the high rail home when he was off duty. He stated that he had given the claimant specific instructions not to take the company vehicle off company property when he was off duty.

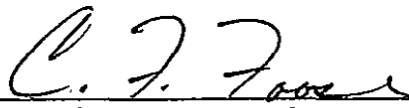
Roadmaster Vaughn further testified that the claimant had been disciplined in the past for taking Company vehicles off Company property outside of assigned hours without permission. He also testified that the claimant did, in fact, take the Company vehicle off Company property on May 3, 1988 after his assigned hours. He stated that claimant had been cautioned several times in the past not to take the truck home.

The Board has reviewed all the testimony and evidence of record. After studying the testimony, it is sufficient to state that there is adequate evidence for the Carrier to find the claimant was guilty as charged. Under the circumstances there is no justification to set the discipline aside.

AWARD: Claim denied.


Preston J. Moore, Chairman

*Dated at Chicago, Illinois
August 18, 1988*


Organization Member


Carrier Member