

PUBLIC LAW BOARD NO. 1582

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

STATEMENT OF CLAIM: Claim is in behalf of A. J. Rael for reinstatement to his former position of Machine Operator on the New Mexico Division with seniority, vacation and all other rights unimpaired and compensation for wage loss commencing May 20, 1975 continuing forward to date that he is restored to service.

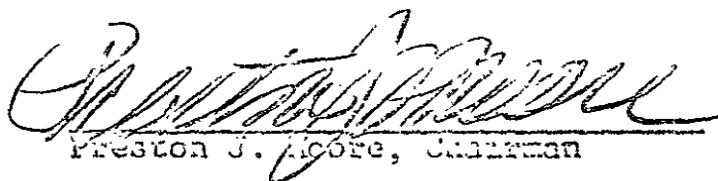
FINDINGS: This Public Law Board No. 1582 finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, and that this Board has jurisdiction.


In this dispute the claimant was dismissed from the service of the Carrier for being insubordinate. The Organization contends that the claimant was not insubordinate in that he was never instructed to perform a service which he refused to perform. The claimant was also found guilty of violating Rule 1055.

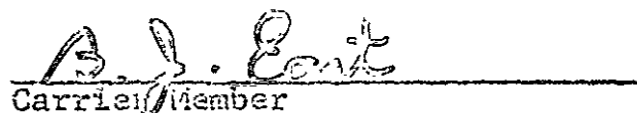
The claimant's own testimony finds him guilty of insubordination. (See Page 3 of the Transcript). Also, see Page 7 of the Transcript where the roadmaster testified that the claimant refused to do the work which he had been instructed to do.

The Organization also contends that the Carrier violated Article 5, Section 1 of the current Agreement when the claimant was removed from service. This is a type of violation which justifies a suspension under Section 2 of Article 5 of the Agreement. Under those circumstances there is no violation of Section 1 of Article 5. In view of the evidence and testimony of record, there is no basis to overrule the decision of the Carrier.

AWARD: Claim denied.


Preston J. Moore, Chairman


Organization Member


Carrier Member