

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 assess claimant D. C. Martinez thirty (30) demerits after investigation July 15, 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 July 15, 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 in LaJunta, Colorado on July 15, 1988 concerning his alleged absence from duty without proper authority on June 13 and 14, 1988 and to determine the facts and place the responsibility, if any, involving possible violation of Rule 1004 of the Safety and General Rules for All Employees, Form 2629, Std.

The claimant did not appear at the investigation. Pursuant to the investigation the claimant was found guilty and was assessed 30 demerits.

Track Supervisor Ponce testified that the claimant stepped on a nail on June 9 while on duty, and on June 10 when he reported for work he was limping and said he had to see a doctor. He testified he took the claimant to the Company doctor who gave him some shots and some tylenol and told the the claimant if he did not feel any better by Monday he should see his family doctor.

Supervisor Ponce then testified that on Sunday night, June 12 the claimant called for him at the motel where he was staying and left a message with the Manager of the motel that the claimant would not be there all week. The claimant did not leave a phone number or address where he could be reached. Mr. Ponce further testified that he did not accept the desk clerk's notification as authority to be absent.

Supervisor Ponce further testified that they tried for approximately two hours to locate the claimant by calling his home in Colorado Springs, at Raton, Las Vegas and Santa Fe but were unable to locate him.

Roadmaster D. A. Hansen testified that the claimant's road gang was working under his supervision during the dates involved. He stated he knew the claimant had been injured in an incident and he brought the proper forms and sat in his truck with the claimant and had the forms filled out.

Roadmaster Hansen also testified that he asked the claimant to be sure and notify him whether or not he would be at work on Monday, and the claimant agreed to do so. He stated that the claimant made no effort to notify him that he would be absent on June 13 and 14.

After studying all the facts involved, it is the opinion of the Board that under the circumstances existing herein 30 demerits is excessive. The most discipline which would be reasonable herein is 15 demerits. The Carrier is directed to reduce the discipline assessed to 15 demerits.

AWARD: Claim disposed of 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 in Chicago, Illinois
September 15, 1988*

C. J. Fosse
Union Member

L. L. Pope
Carrier Member