

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: Claim that the Carrier restore J. W. Carter to his former position with pay for all time lost and/or otherwise made whole, with seniority, vacation and all other rights unimpaired.

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 Lubbock, Texas on April 20, 1988 concerning his allegedly being absent without proper permission on March 24, 1988 while he was assigned to Gang 52 at Lubbock, Texas and to determine the facts and place the responsibility, if any, involving possible violation of Rules 13 and 15 of General Rules for the Guidance of Employees, 1978 and/or Rules Maintenance of Way and Structures October 28, 1985.

Pursuant to the request of the Union, the investigation was held on April 18, 1988.

The claimant testified he was absent without permission on March 24 and stated the reason he was off was because he had a suspended license and he had to pay a fine on the 24th or 25th, and he could not pay the fine because he was waiting until he got paid on the 30th of the month.

The claimant testified that the police came to his home and arrested him on a warrant for \$340 which he owed. The claimant testified he was in jail at approximately 8:00 p.m. on March 23, and he also had some personal problems.

Foreman M. A. Byram testified that he was the foreman relieving on Extra Gang 52 in Lubbock, Texas on March 24. He stated that the claimant was scheduled to work on March 24 and report for duty at 7:00 a.m. on that date. He stated that the claimant did not report for duty.

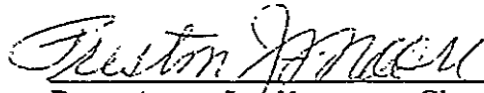
Roadmaster Rinne testified that the foreman had called him on the morning of March 24 and advised that the claimant did not report for work. He further testifies that he talked to the claimant on the 25th and offered him 30 demerits, but the claimant refused.

The claimant testified that after he was incarcerated, he had one phone call to his lawyer, but he did not ask his lawyer to call the Carrier.

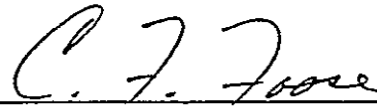
The Union contends that the claimant was unjustly dismissed and requests the claim be sustained.

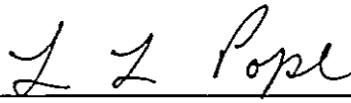
The Board has reviewed all of the testimony and evidence of record and finds there is no justification to set the discipline aside. The claimant has an extremely poor service record. The evidence indicates the claimant had been dismissed from service on three occasions and then reinstated.

AWARD: Claim denied.


Preston J. Moore, Chairman

*Dated at Chicago, Illinois
November 29, 1988*


Union Member


Carrier Member