AWARD NO. 45
Case No. 48

PUBLIC LAW BOARD NO. 1582

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

STATEMENT OF CLAIM: Claim in behalf of former Trackman E. Pacheco, Colorado Division, for reinstatement with seniority, vacation and all other rights unimpaired and compensate him for wage loss beginning June 18, 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 claimant had signed a resignation dated June 18, 1975. The Organization contends that the claimant was coerced and intimidated into signing the resignation. The claimant stated he was told to either sign the resignation or he would be fired anyway.

Evidence of record indicates that on May 3, 1974 the claimant failed to report for work and was assessed ten demerits for being absent from duty without authority in violation of Rule 16. On January 13, 1975 the claimant was absent from duty without authority and advised his foreman upon reporting the following date that he had been sick but did not have a doctor's release.

On April 13, 1975 the claimant secured a leave of absence account of illness covering the period from April 12, 1975 through May 18, 1975. On May 27, 1975 the claimant again failed to report for work. That afternoon he advised his foreman he had had car trouble. On May 28, 1975 the claimant was advised that the next incident involving his failure to report for duty without prior permission would result in discipline.

On June 6, 1975 the claimant requested permission to be off for personal business and the permission was granted. The claimant was displaced on June 10, 1975 and was instructed to report for duty on extra gang #55 at Lamar, Colorado. He did not report to the gang on June 10 as instructed and on June 11 a note was received from the claimant in the Division Engineer's Office at La Junta, Colorado wherein the claimant stated he was unable to work the week of June 9 to 13 because he had personal matters to attend to.

On June 13, 1975 the claimant was instructed to report to the Division Engineer's Office at La Junta for a conference. On that date the claimant was advised that his continued absences from duty

without authority would not be tolerated and he was instructed to report to the foreman at Lamar immediately.

The claimant did not report as instructed and remained in his automobile with his girl friend until the assistant roadmaster approached him and instructed him to get out and begin working with the gang. At the close of work June 16, 1975 the claimant disappeared and did not report for duty on June 17, 1975.

On June 18, 1975 the claimant was contacted by a roadmaster, and the claimant advised the roadmaster that he did not wish to continue working on the extra gang in Colorado. In the presence of the claimant the roadmaster called the Division Engineer who suggested that if the claimant intended to resign that the roadmaster should obtain the resignation form and have the claimant sign it. The claimant signed the form, and it was witnessed by the roadmaster and an acting agent at Las Vegas.

There is no evidence of record to support the Organization's charge that the Carrier used undue influence or pressure upon the claimant to sign the resignation. The claimant's service record is very poor and indicates that he had no great desire to continue working for the Carrier. On the foregoing basis the Board finds no support for the claim.

AWARD: Claim denied.

Preston J. Moore, Chairman

Organization Member

Carrier Member