

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 A. L. Yarbough thirty (30) demerits after investigation of July 14, 1988 was unjust.
- 2.. That the Carrier now expunge thirty (30) demerits from claimant's record, reimbursing him for all wage loss and expenses incurred as a result of attending the investigation July 14, 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 on June 14, 1988. The investigation was postponed and finally held on July 14, 1988. The claimant was charged with being late for work on May 31, 1988 and the possible violation of Rule 1004, Safety and General Rules for All Employees, Form 2629 Standard. Pursuant to the investigation the Carrier found the claimant was guilty of violating Rule 1004 and the claimant was assessed thirty demerits.

The transcript of record contains 33 pages of testimony. The Board has studied the transcript in order to decide the issue involved.

Roadmaster J. S. Campbell testified that on the date in question he received a call from the claimant a few minutes after 7:00 a.m. who advised that his car had broken down the day before, and he had made arrangements to get to work with someone else, but they did not show up, and he was in the process of trying to get to work.

Roadmaster Campbell testified that he did not know of the claimant being tardy in the past. He further testified that another employee named Akbar was also late and was offered 15 demerits and claimant was offered 30 demerits. He also testified that Mr. Akbar was offered 15 demerits because he had a good personal record with very little discipline in the past. He stated he checked the claimant's demerit record and found he had numerous violations for absenteeism, as well as suspensions and investigations for the same violation.

The Board has carefully considered the testimony of the claimant herein. He evidently made a valiant effort to get to work on time even though his car was broken down. Normally the Board would agree with the Carrier that there was justification in giving this claimant more demerits than were given his fellow employee who had a good record.

However, in this case the Board is inclined to reduce the demerits because of the efforts the claimant made in attempting to contact the Carrier and his attempts and efforts to try to get to work on time. 30 demerits is a serious assessment of discipline when the employee already has 25 demerits.

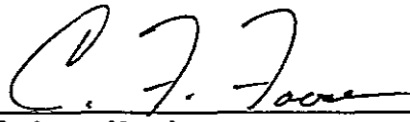
Under the circumstances herein the Board directs the Carrier to reduce the demerits assessed to 15 demerits.

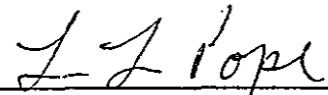
AWARD: Claim disposed of as per above.

ORDER: The Carrier is directed to comply with this award within thirty days from the date of this award.


Preston J. Moore, Chairman

Dated at Chicago, Illinois
December 20, 1988


Union Member


Carrier Member