

PUBLIC LAW BOARD NO. 1582

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

STATEMENT OF CLAIM:

1. Carrier's decision to remove former Texas Division Trackman A. L. Crawford from service, effective September 30, 1988, was unjust.
2. Accordingly, Carrier should be required to reinstate claimant Crawford to service with his seniority rights unimpaired and compensate him for all wages lost.

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 working on August 17, 1988 cutting a rail. The evidence and testimony establish that it must have been very hot weather. The claimant stated he was hot and overheated so he sat down and lit a cigarette.

The claimant testified that Foreman Oliver told him: "Get up and let's go to work, Archie. You've had plenty of time to break. You've been setting there for fifteen minutes. You've had long enough time to break."

The claimant then stated that he told the foreman he had just gotten there, and the foreman knew he had just gotten there. He stated that at this time the foreman blew up and said: "You walk back to Conroe then."

The claimant admitted he did not make a move to go back to work at that time for the reason that the foreman had told him at the start of the week that if he felt himself overheating or if he got too hot, not to hesitate but get over there and set down and cool off.

Truck Driver W. C. Johnson, Jr. testified that he thought there could have been hard feelings between the claimant and the foreman. He also testified that after the claimant finished cutting the rail at the crossing, he seemed overheated and needed a break.

The foreman testified the claimant had five or six minutes after cutting the rail before he instructed him to go back to work. The foreman instructed another member of the gang to go back to work at the same time, and he did so. However, the other employee had to be instructed twice before he returned to work.

The transcript contains 120 pages. All of the testimony and the evidence submitted by the parties has been studied by the Board. After much deliberation, it is the opinion of the Board that dismissal in this case is harsh, arbitrary and unjust.

The Carrier is directed to reinstate the claimant with seniority and all other rights unimpaired but without pay for time lost.

AWARD: Claim sustained 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


Organization Member

*Dated at Chicago, Illinois
May 30, 1989*


Carrier Member