

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. That the Carrier's decision to assess Claimant Eberhart and Claimant Morgan thirty (30) demerits each after investigation January 12, 1990 was unjust.

2. That the Carrier now expunge thirty (30) demerits from each of the Claimant's records, reimbursing them for all wage loss and expenses incurred as a result of attending the investigation January 12, 1990 because a review of the investigation transcript reveals that substantial evidence was not introduced that indicates Claimants are guilty of violation of rules they were 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 claimants were notified to attend an investigation in Kansas City, Kansas on January 3, 1990 to develop the facts and place the responsibility, if any, in connection with possible violation of Rules A, I and 1009, Safety and General Rules for All Employees, 1989, concerning their alleged altercation and horseplay on December 4, 1989. The investigation was postponed and held on January 12, 1990.

The Board has read the testimony of record and considered all the facts involved. Under the circumstances herein 30 demerits is excessive. Evidence indicates both of the employees are guilty of violating the rules. However, the maximum discipline which could be justified is 20 demerits. Therefore, the Carrier is directed to reduce the discipline to 20 demerits each.

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.

*Dated at Chicago, Illinois  
March 26, 1990*

*Preston J. Moore*  
Preston J. Moore, Chairman

*C. F. Farn*  
Union Member

*L. Z. Popl*  
Carrier Member