

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 M. D. Galvez twenty (20) demerits after investigation March 30, 1990 was unjust.
2. That the Carrier now expunge twenty (20) demerits from Claimant's record, reimbursing him for all wage loss and expenses incurred as a result of attending the investigation March 30, 1990, 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 at Somerville, Texas on March 30, 1990 to determine his responsibility, if any, in connection with possible violation of Rules A, I, L, 1007, 1600 and 1612, Safety and General Rules for All Employees, Form 2629 Standard.

As a result of the investigation the claimant was found guilty of violating the rules and was assessed 20 demerits and disqualified as a truck driver.

The Board has examined the transcript of record and the exhibits submitted by the parties.

Foreman D. L. Mott testified the claimant worked under his jurisdiction and had done so since February 20, 1990 and was assigned as a truck driver. Foreman Mott testified that the claimant drove too close to the center stripe too often and would then jerk the steering wheel to get back in the right lane.

Foreman Mott stated the claimant made him and his fellow employees nervous with his driving. He testified that Foreman Watson left a message that the claimant's driving also made him nervous. He further testified he checked with some of the men on the Northern Division, and they advised that most of the time the claimant was not allowed to drive and was replaced by another truck driver.

Foreman Mott also testified he talked to Mr. Johnson who stated the claimant's driving made him nervous, and he did most of the driving during the five weeks the claimant was on that section. Mr. Mott testified that on February 23 his men on the Somerville Section complained they did not feel safe with the claimant driving the truck, so he started driving the truck himself.

Foreman Mott also testified he reported this matter to Roadmaster Wagner and advised the Roadmaster that the claimant was disqualified as a truck driver on his territory. Roadmaster Wagner later advised Foreman Mott to let the claimant drive, and that he should document his driving.

Foreman Mott testified he then informed Roadmaster Wagner that as a foreman, he was responsible for the safety and wellbeing of his men, and he did not feel safe with the claimant driving; further he advised that he would be driving the truck in the place of the claimant.

Foreman Mott testified that on March 5 he allowed the claimant to drive the truck while highrailing to pull ties up an incline instead of the tie gang, and on three occasions the claimant forgot to pull the brake button on the dash which resulted in the truck rolling back down the hill toward Mr. Barlow and himself.

Foreman Mott also testified that on March 7 he had been instructed by Roadmaster Wagner to allow the claimant to drive the Company truck and to document his driving. He stated that at 7:15 a.m. the claimant was driving on the yellow line; again at 7:22 a.m. he was driving too close to the center line; at 7:30 a.m. the claimant leaned over to look for the flasher button, and while so doing, the truck went across the double yellow line into the other lane.

Foreman Mott testified that while the last incident was happening, and the matter was brought to the claimant's attention, the claimant jerked the truck back across the yellow line, as well as across the proper lane and into the shoulder lane. He testified this allowed a Central Freight Truck to get by.

Foreman Mott stated that at 7:51 a.m. the claimant was corrected again for driving too close to the yellow line. He testified that at 8:30 a.m. the claimant was instructed to put the truck on the track for highrailing on the Milano Siding, and the claimant was unable to do so. He stated that at 1:30 p.m. the claimant drove the rear wheels of the truck through a ditch because he cut too short to go around a curve.

Trackman R. M. Watson testified he did not feel safe with the claimant driving a truck because he strayed over the yellow line, ran red lights and did not slow down for a turn. He testified he had been on the job with the claimant since February 20.

Trackman Joe Reyes testified that he refused to ride in the Company truck because the claimant was a very careless driver.

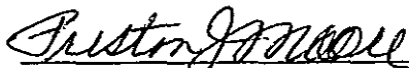
Roadmaster Wayner testified he had had complaints from several people about the claimant's driving, and the claimant's foreman had requested that he ride with the claimant. Mr. Wagner testified he rode with the claimant to Milano and felt the claimant was taking chances and he had to remind him not to go across the yellow line. He stated he talked to the other employees, and they were all uneasy about the claimant's driving.

The claimant's testimony has been studied. The claimant testified that no one complained of his driving habits officially. He testified he did not cross double yellow lines and did not run a red light at Somerville. He further testified that two witnesses were lying. He also denied that the five witnesses who testified had ever told him his driving was unsafe.

After reviewing all the testimony, the Board finds there is no justification to set the discipline aside.

AWARD: Claim denied.

Dated at Chicago, Illinois
June 5, 1990


Preston J. Moore, Chairman


Union Member


Carrier Member