AWARD NO. 49
Case No. 55

PUBLIC LAW BOARD NO. 1582

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

STATEMENT OF CLAIM: Claim in behalf of former Trackman P. L. Segovia, Los Angeles Division, for reinstatement to his former position with seniority, vacation and all other rights unimpaired and compensation for wage loss beginning November 22, 1974 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 the Organization contends that the dismissal of the claimant was improper and that the discipline assessed was excessive. The Organization contends that there is no evidence of record to indicate that the claimant received the notice of the investigation.

The Organization points up that the claimant's place of residence is only a short distance from the Division Office where the investigation was held. The Organization also points up that the assistant General Chairman and Local Chairman reside in the area but no effort was made to contact them regarding the investigation.

The Carrier discharged the claimant for being absent from duty without proper authority. The claimant was notified by certified mail to appear for the investigation on November 15, 1974.

The claimant had been assessed demerits on four prior occasions for the same violation during the three year period he had been employed by the Carrier. The claimant had also been reprimanded on September 26, 1974 for insubordination.

The Carrier notified the claimant of the investigation by certified mail at his last address on file with the Carrier. The Carrier is not under obligation to go to the claimant's home and talk to him personally or to call the Local Chairman or the Assistant General Chairman and notify them an investigation is going to be held.

The claimant has a responsibility in this matter to notify the Carrier if he wishes a delay in the investigation or to be present with the representative of his choice. It is obvious the claimant herein was aware that the investigation was going to be held and

did not indicate an interest in being present. Under those circumstances, there is no justification to overrule the decision of the Carrier.

AWARD: Claim denied.

Preston J. Moore, Chairman

Organization Member

Carrier Member