

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. Carrier's decision to remove New Mexico Division Trackman M. D. Galvez from service, effective May 9, 1990 was unjust.
2. Accordingly, Carrier should be required to reinstate claimant Galvez to service with his seniority rights unimpaired and compensate him for all wages lost from May 9, 1990 forward.

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 a formal investigation in El Paso, Texas on May 3, 1990. The claimant was charged with allegedly being late to work on April 22, 24, and 25, 1990 and possible violation of Rule 1004 of the Safety and General Rules for All Employees, 2629 Std., effective October 29, 1989.

The investigation was postponed until May 9, 1990. Pursuant thereto the claimant was found guilty and was dismissed from the service of the Carrier.

J. E. Mayhill, Welding Supervisor, testified he was supervising the welding gangs working behind the System Steel Gangs 1 and 2 during the weeks of April 22 and 30, 1990. He stated claimant was assigned to Gang 26 which is one of the gangs working under his supervision.

Supervisor Mayhill testified that the claimant reported late to work on April 22, and he took him from the depot to the gang on that date. He stated the claimant was again late on April 24 and did not work with Gang 26 on that date. He stated the claimant did work in another gang that day. He testified the claimant was also late on April 25. He testified the claimant was around 15 minutes late each day, and he did not accept the excuse offered for the tardiness.

The claimant testified he had car trouble. Supervisor Mayhill did not excuse him since the claimant was staying in a hotel about six blocks from the depot.

The Union introduced evidence that the claimant had to replace an alternator on his vehicle on April 30. The claimant testified his tardiness was caused by the car trouble, and he also admitted he was absent without authority on April 30.


The evidence establishes the claimant had been offered 20 demerits which he refused to accept. The claimant pointed out that if he accepted the 20 demerits, he would exceed the 60 demerit limit.

The claimant testified that on April 30 he realized he was late again, and he just decided to be absent. The claimant testified it was about one-half mile from the Range View Motel where he was staying to the Vaught Depot. The claimant admitted the Company truck went by the motel and could have picked him up. He stated he was afraid to flag the truck because Mr. Matthews would not pick him up in order to punish him.

The Board has reviewed all the evidence of record. The claimant did not allow for sufficient time for him to leave Fort Worth and report to work. Under the circumstances there is no justification to set the discipline aside.

AWARD: Claim denied.


Preston J. Moore, Chairman


Union Member

Dated at Chicago, Illinois

November 21, 1990


Carrier Member