

PUBLIC LAW BOARD NO. 1582

PARTIES) THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY
TO)
DISPUTE) UNITED TRANSPORTATION UNION

STATEMENT OF CLAIM:

1. Carrier's decision to remove Texas Division Trackman L. R. Johnson from service, effective July 13, 1990, was unjust.
2. Accordingly, Carrier should be required to reinstate claimant Johnson to service with his seniority rights unimpaired and compensate him for all wages lost from July 13, 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 an investigation at Somerville, Texas on July 19, 1990. The claimant was charged with possible violation of Rules L, 1007, 1009, 1013, 1028(b), Safety and General Rules for All Employees, Form 2629 Std., effective October 29, 1989 concerning his alleged appropriation of Company property out of Company Vehicle AT-38571 and alleged appropriation of personal property of another employee from his personal vehicle while it was parked on Company property at Somerville, Texas during the last half of May and the first half of June, 1990.

The claimant did not appear for the investigation. A Union representative did appear but had nothing to indicate the claimant had authorized him to represent the claimant. On that basis Carrier excused the Union representative.

By letter dated July 20 a Certified Social Worker wrote a letter to the Division Manager advising the claimant was being held in the Burleson County Jail and was unable to make arrangements to attend the hearing. It is noted this letter was dated one day after the hearing.

A Special Agent for the Carrier and a Sergeant for the Somerville Police Department testified. Their testimony established that the claimant had in effect stolen equipment from the Santa Fe truck and a pistol and air tools from the vehicle of a fellow employee. The Police Sergeant testified that the claimant confessed to the incident.

Machine Operator K. A. Dusik testified the claimant was driving his Blazer while he drove the crane to work locations. He testified the claimant took his air ratchet, air drill, sockets, drill bits, oil filter wrench. He stated he went to the claimant's home, and after talking with him, asked for the pawn tickets where the claimant had pawned these items. He stated the claimant gave him the pawn tickets.

Under the circumstances in this case, the evidence is certainly sufficient for the Carrier to determine the claimant was guilty as charged.

AWARD: Claim denied.

Preston J. Moore

Preston J. Moore, Chairman

C. J. Fune

Union Member

*Dated at Chicago, Illinois
November 21, 1990*

L L Pope

Carrier Member