

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. That the Carrier's decision to assess claimant Collier a suspension of 60 days after investigation July 11, 1991 was unjust.
2. That the Carrier now expunge the 60 day suspension from the claimant's record, reimbursing him for all wage loss and expenses incurred as a result of attending the investigation July 11, 1991, 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 in Oklahoma City, Oklahoma on July 5, 1991. The claimant was charged with possible violation of Rules A, B, 351 and 351(B) of the General Code of Operating Rules, Second Edition, effective October 29, 1989; Rule 951 of Rules and Instructions for Maintenance of Way Employees and Structures, Form 1015 Standard, effective October 29, 1989; and Rule 1007 of the Safety and General Rules for All Employees, Form 2629 Standard, effective October 29, 1989 in that the claimant allegedly operated Ballast Regulator AT-99087 outside his track and time limits in the siding at Ponca City, Oklahoma at approximately 1:25 p.m. on June 7, 1991.

The investigation was postponed until July 11, 1991. The claimant appeared for the investigation and advised the Carrier he did not wish representation. Pursuant to the investigation the claimant was assessed a 60 day suspension.

A. B. Caudle, Train Dispatcher, testified that the claimant got outside the authorized time limits at about 1:25 p.m. on June 7, A transcript of the conversation between Dispatcher Caudle and the claimant was introduced into evidence. The claimant admitted he did not have clearance at that time.

Roadmaster L. W. Trimble testified that he talked to the claimant about being outside his limits, and the claimant admitted that such was the case and he would accept any discipline in relation to the

incident. The claimant made a statement at the investigation admitting his guilt but pointed up that he had over 20 years of injury free service and he had not lost a day of service in over 11 years.

The claimant also pointed out that on the week end of this violation he worked 29 hours of overtime; also he had worked long hours of overtime the previous 4-day work week. The claimant also pointed out all of the problems with operating the Ballast Regulator in temperatures of over 118° in midday summertime brooming. Claimant also pointed up that the dust was so thick he could not see the ground.

The transcript of record indicates the claimant was guilty as charged. The Board finds, however, that in view of the fact the claimant had an excellent record and an attitude that is rarely found in this business, the discipline assessed is too severe.

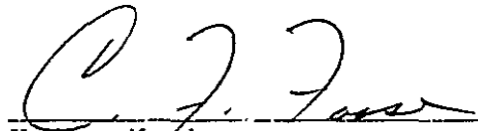
Under all of the circumstances herein the offense herein does not justify a 60 day suspension. The Board finds that a 30 day suspension is all the discipline which could be justified. Therefore, the Carrier is directed to reduce to suspension to 30 days.

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 Schaumburg  
September 5, 1991*

  
Preston J. Moore, Chairman

  
Union Member

  
Carrier Member