

AWARD NO. 55
Case No. 63

PUBLIC LAW BOARD NO. 1582

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

STATEMENT OF CLAIM: Claim for reinstatement of former Trackman T. L. Quint, Middle Division "with seniority, vacation and all other rights unimpaired and compensated for wage loss beginning August 14, 1975 until 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 claimant was charged with a violation of Rule 16, particularly that portion thereof which reads as follows:

"Employees must not be indifferent to duty, insubordinate, immoral, cross or viscious."

The Board has examined the transcript of record and the testimony of the parties involved, and it appears that the evidence of record supports the decision of the Carrier. The least that can be said of the claimants conduct was that he was certainly quarrelsome with his foreman, and the most that could be concluded from the testimony was that he was insubordinate.

The testimony is conclusive that the claimant was guilty as charged. However, the claimant has a reasonably good record, and it does not appear that the claimant was purposely intending to be insubordinate or to be particularly quarrelsome. The intent of the employee in insubordination cases is generally the prime concern of the Carrier. If an employee displays an absolute disregard for authority or is continually quarrelsome, permanent discharge is justified.

However, under the circumstances herein we do not believe that the degree of guilt in the present case justifies permanent dismissal. On that basis the Board finds that the claimant should be reinstated with seniority and all other rights unimpaired but without pay for time lost.

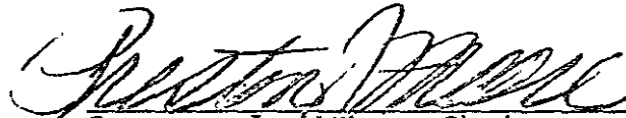
AWARD: Claim sustained as per above.

ORDER: The Carrier is directed to comply with this award within thirty days from the date of this award.

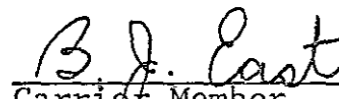
PLB 1582

Award No. 55

Page 2


Preston J. Moore, Chairman


Organization Member


Carrier Member