

PUBLIC LAW BOARD NO. 1582

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

STATEMENT OF CLAIM: That the Carrier violated the terms of the Agreement when they removed Los Angeles Terminal Division B&B Painter M. A. Jones from service September 2, 1975 and then again removed him from service on or about October 16, 1975, said removal being unjust, unreasonable and excessive. That the Carrier reinstate M. A. Jones to his former position with seniority, vacation and all other rights unimpaired and compensate him for loss of earnings beginning September 2, 1975 continuing forward until he is reinstated 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 failure to obey written instructions from the Supervisor and using argumentative and abusive language and threatening bodily harm to other employees in violation of Rules C, 751, 752A, 752B, 752C and 752D of the Rules for Maintenance of Way and Structures.

The Organization contends that the Carrier denied the claimant due process and was unreasonable in finding the claimant guilty of failure to protect his assignment on August 29, 1975 and that the discipline assessed was unreasonable and unjust and excessive and that the Carrier found the claimant guilty of a charge not contained in the Notice of investigation.

The Carrier contends that the claimant was given a fair investigation and that the discipline assessed under the circumstances was reasonable and just.

The claimant was notified that his case was going to be heard before this Public Law Board and was advised that he was privileged to appear in person or by a representative of his choice if he so desired. The claimant did not appear, and the Union represented him in this case.

Division Engineer C. W. Hanson testified that the claimant was brought to his office, along with Mr. McGlothlin and Mr. Berio, and that a discussion regarding his absences made the claimant very argumentative. At this meeting the claimant stated that he had not received a letter dated August 19 from Mr. Hanson, and he refused to discuss the problem but wanted to argue and further stated that he would work when he felt

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like it and called Mr. McGlothlin a liar. The evidence indicates that the letter in question by Mr. Hanson was sent by certified mail.

Testimony reveals that the claimant was abusive in his language to General Foreman McGlothlin.

The Board could cite numerous pages of testimony regarding the claimant's conduct but feel under the circumstances it would be redundant. It should be sufficient to say that the claimant's conduct cannot be tolerated. It was abusive, foul and threatening. For the foregoing reasons the Board finds no support for the claim.

AWARD: Claim denied.

sd/ Preston J. Moore

Preston J. Moore, Chairman

sd/ S. E. Fleming

Organization Member

sd/ B. J. East

Carrier Member