

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 in behalf of C. Mariano for reinstatement to his former position with seniority, vacation and all other rights unimpaired and compensation for wage loss beginning August 31, 1973 continuing forward until 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 absent without proper authority and was issued thirty demerits as a result thereof. Again, commencing Monday, August 6, 1973, the claimant was absent from work without authority and was not seen or heard from until Monday, August 20, 1973 when he arrived at work apparently under the influence of intoxicants.

The Organization contends first of all that the claimant was not subject to duty and therefore the charge of a violation of Rule "G" should be eliminated. The Organization further contends that dismissal for being absent without proper authority under these circumstances does not justify dismissal.

In reaching a decision as to the degree of discipline to be assessed, the Board must take into consideration the prior record of claimant. It is noted that approximately one month previously the claimant had been assessed thirty demerits for being absent without proper authority. Evidence of record indicates that the claimant is an excessive drinker of alcoholic beverages.

Under these circumstances the Board is unable to find that the discipline assessed is harsh, arbitrary or unjust. It is the opinion of the Board that the claimant was subject to duty. If he had not been in an intoxicated condition, he could have been allowed to return to work.

The Carrier might very well have issued another thirty demerits for being absent without proper authority and held an investigation. When the claimant reported to his work point, he at least assumed that he was subject to duty and was reporting for work or was asking to be discharged.

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Under the foregoing circumstances the Board finds no support for the claim.

AWARD: Claim denied.

  
Preston J. Moore, Chairman

  
Organization Member

  
Carrier Member

September 12, 1975