

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: Claim in behalf of former Trackman M. W. Caetano, Southern Division, for reinstatement "to his former position as trackman with seniority, vacation and all other rights unimpaired and compensation for wage loss beginning June 14, 1977 continuing 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 an investigation was held to develop the facts regarding the claimant's accumulation of more than 60 demerits against his personal record and to determine whether he violated Rule 32G, General Rules for the Guidance of Employees.

The claimant signed a waiver and accepted 20 demerits on May 24, 1977 which brought his total demerits to 70. The claimant had been notified April 27, 1977 that he had 50 active demerits and was reminded that 60 demerits subjected an employee to dismissal. Certainly it cannot now be said that claimant was unaware that the acceptance of 20 additional demerits would subject him to possible discharge.

The Carrier did err in failing to notify the General Chairman of the results of the formal investigation held June 13, 1977, and if in any manner this affected the time limits involved, it will be modified to allow the Organization more time to appeal. Also it is noted that the Organization objected to some of the discipline which had been assessed the grievant as being excessive. In that regard the discipline assessed becomes final unless appealed, and there was no appeal in those cases. The claimant accepted the demerits which placed him over 60 demerits, and the Board has no authority to overrule the decision of the Carrier.

AWARD: Claim denied.

  
Preston J. Moore, Chairman

  
Organization Member

  
Carrier Member

Dated November 27, 1978