

PUBLIC LAW BOARD NO. 1582

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

STATEMENT OF CLAIM: 1. That the Carrier violated the Agreement when Albert Tso was dismissed from the service on charges not sustained by the record, said dismissal being harsh, excessive and disproportionate to the offense allegedly committed.


2. That Albert Tso be restored to the service with seniority, vacation and all other rights unimpaired and be compensated for loss of earnings subsequent to May 30, 1973.

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 dismissed from the service of the Carrier for being intoxicated while subject to duty. The Organization contends that dismissal is too severe and that the Carrier prejudged the guilt of the claimant.

At the outset, the Board has examined the evidence of record, and the evidence is overwhelming that the claimant was guilty as charged. We have examined the evidence presented by the Organization in behalf of pre-judgment and find that it is lacking. There is no evidence to show that the decision was made on other than the evidence produced at the investigation. The claimant entered the service of the Carrier October 19, 1970. He had worked previously for approximately seven years but had not acquired any seniority. The claimant has been reinstated on a leniency basis for the same offense (Rule "G"). There is no basis for this Board to overrule the decision of the Carrier.

AWARD: Claim denied.


Preston J. Moore, Chairman


Organization Member


Carrier Member

September 12, 1975