

PUBLIC LAW BOARD NO. 3308

Award No. 2
Case No. 2

PARTIES
TO
DISPUTE

Brotherhood of Maintenance of Way Employees
The Atchison, Topeka and Santa Fe Railway Company

STATEMENT
OF CLAIM

"Claim that former Illinois Division Trackman T. D. Moore be reinstated to service with seniority, vacation, all benefit rights unimpaired and paid for all wage loss and/or otherwise made whole, account being unjustly dismissed for alleged theft of company material as a result of formal investigation held January 18, 1982."

FINDINGS

Upon the whole record the Board finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended, and that this Board is duly constituted under Public Law 89-456 and has jurisdiction of the parties and the subject matter.

The Claimant was employed as Trackman for the Carrier on June 28, 1978. In a letter dated December 15, 1981 Claimant was advised to report for formal investigation to be held December 28, 1981, concerning his alleged theft of Company material in Streator, Illinois, on or about November 20, 1981. At Claimant's request, the investigation was postponed and was held January 18, 1982.

The Board has thoroughly scrutinized the entire record of this dispute, including the transcript of the formal investigation. The hearing and investigation record in this case support a finding that the Claimant was guilty of the charges filed.

Numerous awards of the various Divisions of the National Railroad

Adjustment Board have held that the type of behavior displayed by the Claimant in this instance is unacceptable by any standard and is grounds for severe discipline. Carrier need not maintain such individuals in its employ. Therefore, the Board holds there is no justification to overrule the decision of the Carrier.

AWARD Claim denied.

Clarence H. Herrington
Clarence H. Herrington
Neutral Member

McCurm
Carrier Member

S. E. F. Luning
Organization Member