

PUBLIC LAW BOARD NO. 2774

Award No. 115
Case No. 115

PARTIES
TO
DISPUTE

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

STATEMENT
OF CLAIM

- "1. That the dismissal of Mr. S. C. Welch was without just and sufficient cause, based on unproven charges, and in abuse of discretion.
2. That Mr. S. C. Welch be reinstated to his former position with the Carrier with seniority and all other rights restored unimpaired and that he be compensated for all wage loss suffered resulting from the erroneous dismissal."

FINDINGS

Upon the whole record, after hearing, 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.

Claimant, an employee with some seven years of service, was discharged following a formal investigation held on September 2, 1982. He had been found guilty of operating a Company vehicle while under the influence of alcohol on August 20, 1982. The record indicates that claimant had been given a Company vehicle with certain equipment on it to take home at the end of the work day and in the course of his trip to his home (with the understanding that he would drive the truck to the work location on the following day) he had an accident and was found to have been under the influence of alcohol at the time of the accident.

There is no dispute essentially with respect to the facts. There is some problem with the timing of the particular incident in which the truck was overturned and there can be some argument as to whether that was during working hours or not, but there is no doubt that the accident

occurred while claimant was under the influence of alcohol and driving the Company vehicle. Subsequent to this entire proceeding, claimant had been advised to enter a rehabilitation program for alcoholism and had been involved with the Company's Employee Assistance Program.

The seriousness of the incident involved cannot be minimized. It is completely beyond tolerance for an employee to be permitted to function, particularly in the railroad industry, while under the influence of alcohol. While this Board believes that the penalty imposed upon claimant may have been sufficient to deal with his infraction, there is a further condition which must be imposed prior to his being reinstated. It is this Board's view that his reinstatement is contingent upon his adhering to the requirements established by the Employee Assistance Counselor. If, indeed, that is accomplished, the claimant shall be reinstated to his former position with all rights unimpaired but with no compensation for time lost. His period out of work shall be considered to have been the disciplinary period for his serious infraction.

AWARD

Claimant shall be reinstated to his former position with all rights unimpaired but without compensation for time lost in accordance with the findings above.

ORDER

Carrier will comply with the award herein within thirty (30) days from the date hereof.



I. M. Lieberman, Neutral-Chairman



C. F. Foose, Employee Member



G. M. Garmon, Carrier Member