

PUBLIC LAW BOARD NO. 2774

Award No. 117
Case No. 117

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 Trackman Frank Tafoya was without just and sufficient cause and in abuse of discretion.
2. That Claimant Tafoya now be reinstated to the service of The Atchison, Topeka and Santa Fe Railway Company with seniority and all other rights restored unimpaired and that he be compensated for all wage loss suffered."

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 was discharged following a formal investigation held on January 6, 1983. He had been charged and found responsible for having been under the influence of an intoxicant and acting in a quarrelsome and vicious manner while on duty.

The evidence set forth in the transcript of the investigation clearly supports Carrier's conclusion that claimant was under the influence of alcohol and also refused to obey his Foreman's instructions to go home on the day of the incident. Additionally, in the course of the investigation claimant admitted that he had a drinking problem. In addition, the record indicates that claimant had been disciplined on several occasions, including one instance in which he was suspended for some six months for possession and use of alcoholic beverages while on duty. It is the Board's view that based on the evidence

adduced at the investigation, Carrier had substantial proof of claimant's guilt of the charges. His past record and the circumstances of the problem indicated in this dispute clearly dictated dismissal on the part of Carrier and there is no basis for disturbing that decision. The claim must be denied.

AWARD

Claim denied.



I. M. Lieberman, Neutral-Chairman



C. F. Foose, Employee Member



G. M. Garmon, Carrier Member

Chicago, IL

December 17, 1984