

PUBLIC LAW BOARD NO. 2774

Award No. 152
Case No. 152

PARTIES TO DISPUTE: Brotherhood of Maintenance of Way Employees
and
Atchafalaya, Topeka & Santa Fe Railway Company

STATEMENT OF CLAIM "1. That the Carrier's decision of April 9, 1985 to dismiss trackman F. Bonnie was in violation of the Agreement, unjust and in abuse of discretion.
2. The Carrier will now be required to reinstate Claimant to former position with seniority and all other rights restored, unimpaired, with compensation 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.

The record reveals that on March 15, 1985, Claimant was removed from service, accused of being under the influence of alcoholic beverages. He had been working as a trackman with a seniority date of May 1, 1973. Following an investigation, held on 3-29-85, Claimant was removed from service permanent, having been found guilty of the charges.

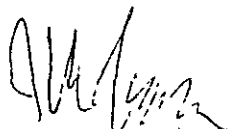
The Petitioner, while indicating that Claimant had admitted having had some alcohol on the afternoon of March 14, and also prior to reporting to work on March 15, argued that his use of alcohol in this instance was justified. The reason for the justification was that he had a severe toothache at the time and had difficulty in obtaining permission to absent himself early enough to see a dentist. The Organization contends that the discipline in this case was inappropriate for a variety of reasons in addition, including the fact that the Claimant herein was a Navajo Indian and lived by different standards than those which Carrier attempt to impose upon him. Furthermore, according to the organization, Claimant had participated in the Navajo Alcoholism Program at the reservation. The Organization insists that Claimant should be given another opportunity to prove his ability to make a good employee, particularly in light of his 12 years of service.

The Carrier notes that this is not the first time that Claimant has been found guilty of the same infraction. He had been found guilty twice earlier and dismissed for precisely the same infraction as well as other disciplinary incidents for different reasons.

The record indicates that Claimant was afforded a fair and impartial investigation and was properly found guilty of the charges. In fact, he admitted to having consumed alcohol prior to coming to work on the day in question. In the light of Claimant's prior record, in spite of the eloquent plea by the Organization, the Carrier had no choice but to dismiss Claimant as the appropriate discipline for his infractions. This action on the part of Carrier was eminently justified based on the entire record.

AWARD

Claim denied.



I.M. Lieberman, Neutral Member



C. F. Foose, Employee Member



G.M. Garmon, Carrier Member

Chicago, Illinois

January 21, 1988