

PUBLIC LAW BOARD NO. 2774

Award No. 186
Case No. 186

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

STATEMENT
OF CLAIM:

"1. That the Carrier violated the current Agreement when it dismissed Mr. P. E. Perez. Said action being excessive, unduly harsh and in abuse of discretion.

"2. That the Carrier reinstate Claimant to his former position with seniority and all other rights restored unimpaired and paid for all wage loss suffered, and his record cleared of all charges."

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.

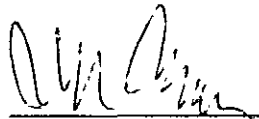
The record indicates that Claimant was charged with violation of certain Company rules for his alleged failure to report a motor vehicle accident while driving a Company vehicle on September 21, 1987; for driving the same Company vehicle without valid driver's license from September 21 through October 13, 1987; and, further, for his unauthorized use of the Company vehicle between the hours

of 3:30pm October 12 and 7:00am October 13, 1987. Following an investigation held on October 23, 1987 (at which Claimant was not present), Claimant was found guilty of the charges and dismissed from Carrier's service. It should be noted further that another investigation was held on November 2, 1987 with respect to the charges against Claimant that he used the Company truck for personal use without authority and without having a driver's license on Saturday October 10, 1987. There was no question but that Claimant (who was present at this subsequent investigation) admitted to the charges.

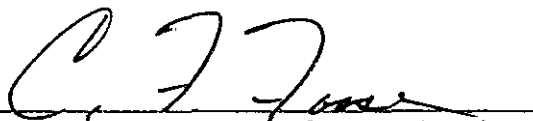
The record indicates that there is no dispute whatever with respect to the facts as presented by Carrier. Claimant was clearly guilty of the charges leveled against him, and the sole question is whether the discipline accorded him was appropriate to the infractions. From the Board's point of view, there is no doubt but that Carrier has the right to insist that employees conform to normal rules of conduct. In this instance, Claimant, who was acting as an Assistant Foreman, exceeded his authority in all areas and violated Company rules by his actions with respect to the improper use of the Company vehicle. Carrier was within its rights to determine that the ultimate penalty of dismissal was appropriate in this instance, and therefore the Claim must be denied.

AWARD

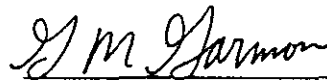
Claim denied.



I. M. Lieberman, Neutral-Chairman



C. F. Foose, Employee Member



G. M. Garmon, Carrier Member

Chicago, Illinois
April 28, 1989