

PUBLIC LAW BOARD NO. 2774

Award No. 4
Case No. 8

PARTIES
TO
DISPUTE

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

STATEMENT
OF CLAIM

- "1. That the dismissal of Los Angeles Terminal Division Trackman C.N. Vasquez was unjust.
2. That Claimant C.N. Vasquez be reinstated to service with seniority, vacation, all benefit rights, pay for wage lost and/or otherwise made whole."

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 herein was employed by Carrier on November 10, 1975. Following an investigation held on January 3, 1980 Claimant was dismissed on January 22, 1980. The charge against Claimant included his alleged appropriation of Company materials for personal use, possession of intoxicants on Company property, failure to obey instructions and causing damage to a Company building on December 10, 1979.

The evidence is clear and the testimony of Claimant admits the following facts:

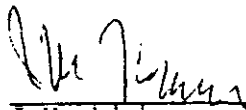
1. On the night of December 10, 1979 in violation of Company instruction he attempted to use a rest room in the locker room of the Company.
2. He broke a window on the same night in that locker room.
3. He appropriated Company gasoline cans for his own use.
4. He had intoxicants in his locker on Company property.

Since these facts were admitted by Claimant, Carrier's charge was obviously supported by substantial evidence. In view of Claimant's short service with Carrier and his

prior record, Carrier was clearly within its rights in determining that the appropriate penalty in this instance should be dismissal. The Board has no choice but to deny the claim.

AWARD

Claim denied.



I.M. Lieberman, Neutral-Chairman



Employee Member



Carrier Member

Chicago, IL, 1981