

PUBLIC LAW BOARD NO. 2774

Award No. 54
Case No. 63

PARTIES
TO
DISPUTE

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

STATEMENT
OF CLAIM

- "1. That the dismissal of Colorado Division Track Man, M. T. Dawson, from service after a formal investigation June 18, 1981, was unjust.
- "2. That Claimant Dawson be reinstated to service with seniority, vacation, all benefit rights unimpaired, pay for wage loss 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.

The record indicates that claimant was employed as a track man by Carrier on January 2, 1979, resigned in July of that year and was re-employed subsequently on July 16, 1979. He was dismissed from service on June 19, 1981, with Carrier having found him to have falsified both of his applications for employment.

The record indicates that claimant, in filling out his employment application (both of them), indicated in response to the question therein that he had not been convicted of a crime. The record of the investigation shows that claimant had been found guilty of the crime of burglary and been sentenced to the penitentiary for a period of eight years. He was also convicted of a second crime. Furthermore, the testimony at the investigation revealed that claimant knowingly falsified his application feeling that he would not have been hired had he not done so. The record clearly indicates that Carrier would not have hired him had his criminal record been known.

The Board finds that claimant was guilty of the charge of falsifying his employment application. Without comment with respect to the motivation for that

falsification, there is no doubt that he knowingly misled the Carrier on that application. For that reason, the claim must be denied.

AWARD

Claim denied.



I. M. Lieberman, Neutral-Chairman



G. M. Garmon, Carrier Member



C. F. Foose, Employee Member

Chicago, Illinois

December 7, 1983