

PUBLIC LAW BOARD NO. 2774

Award No. 57
Case No. 70

PARTIES
TO
DISPUTE

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

STATEMENT
OF CLAIM

- "1. That the Carrier violated the Parties' Agreement when, as a result of an investigation conducted July 28, 1981, they dismissed Machine Operator D. E. Lemon from service, said dismissal being excessive and in violation of due process.
2. That Claimant D. E. Lemon be reinstated to the service with seniority, vacation and all other rights unimpaired and, additionally, be compensated for loss of earnings suffered on account of Carrier's improper action."

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 charged with alleged appropriation of Company property for personal use while employed as an independent machine operator. Following an investigation, Carrier found him guilty of the charges and dismissed him.

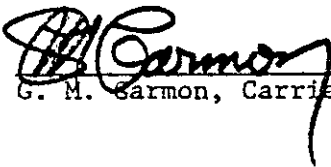
A review of the investigation reveals that claimant had misappropriated for his own use a series of items which belonged to the Carrier. Those items included a generator, a track jack, solvent, propane tanks and a gasoline can. The transcript reveals that claimant admitted possession of the items which belonged to the Carrier and had no ready reason for their possession as part of his apparent personal property. The Board finds that the evidence unequivocally supports Carrier's conclusion with respect to claimant's guilt of the charges. In view of the seriousness of the infraction involved herein, the penalty of dismissal was obviously appropriate. The claim must be denied.

AWARD

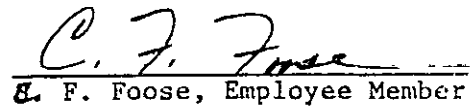
Claim denied.



I. M. Lieberman, Neutral Chairman



G. M. Garmon, Carrier Member



E. F. Foose, Employee Member

Chicago, Illinois

December 7, 1983