Award No. 23 Case No. 55

Public Law Board No. 2778

 PARTIES
 Brotherhood of Maintenance of Way Employes

 TO
 and

 DISPUTE:
 and

 Baltimore and Ohio Railroad Company

STATEMENT
OF
CLAIM:Trackman C. E. Foraker was dismissed unjustly and
of
should be restored to service in accordance with
Rule 48(e).

FINDINGS: Claimant was dismissed on the basis of Carrier's findings that he had filled the tank of his own car with some 15-20 gallons of gasoline that he had taken without permission from one of Carrier's storage tanks. There is substantial evidence in the record that supports these findings; the evidence also indicates that claimant had taken gas for his own use from the storage tank on prior occasions.

Claimant admitted taking the gasoline without permission for his own use. He testified that he had used his own automobile at times during working hours to assist Carrier in hauling men and material and, on the Saturday in question, to inspect tracks for vandalism reported by a friend called "Cherokee" who claimant happened to meet. PLB - 2778

In this setting, no valid ground is perceived for setting aside Carrier's findings of fact or reversing its decision to dismiss claimant.

AWARD: Claim denied.

Adopted at Baltimore, Maryland, Sebruary 22, 1984. Chairman

Employe Member