

PUBLIC LAW BOARD NO. 3241

In the Matter of:) National Mediation Board
) Administrator
)
BROTHERHOOD OF MAINTENANCE OF)
WAY EMPLOYES,)
)
Organization,)
and)
)
UNION PACIFIC RAILROAD) Case No. 46
COMPANY,) Award No. 46
)
Carrier.)
_____)

Hearing Date: March 9, 1994
Hearing Location: Sacramento, California
Date of Award: March 2, 1995

MEMBERS OF THE BOARD

Employes' Member: C. F. Foose
Carrier Member: D. A. Ring
Neutral Member: John B. LaRocco

ORGANIZATION'S STATEMENT OF THE CLAIM

1. That the Carrier violated the current Agreement when it dismissed Track Laborer D. K. Purrington. Said action being excessive, unduly harsh and in abuse of discretion.
2. That the Carrier reinstate Claimant to his former Carrier position with seniority and all other rights restored unimpaired with pay for all loss of earnings suffered, and his record cleared of all charges. (Carrier File No. 910640.)

OPINION OF THE BOARD

This Board, after hearing upon the whole record and all evidence, finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act as amended; that this Board has jurisdiction over the parties and the subject matter of the dispute herein; that this Board is duly constituted by an Agreement dated July 23, 1982; and that all parties were given due notice of the hearing held on this matter.

Claimant in this case is also the Claimant in Case No. 47 which this Board concurrently heard and considered with Case No. 46. In Award No. 47, we upheld the dismissal of Claimant for falsifying information on his employment application.

In this case, the Carrier charged Claimant with committing a Rule G violation and following a May 21, 1991 hearing, it dismissed Claimant from service.

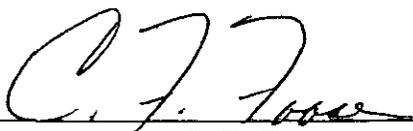
Inasmuch as this Board affirmed Claimant's dismissal in Award No. 47, we could not afford Claimant any remedy even if we were to completely exonerate him of the Rule G violation herein.

Thus, Case No. 46 is moot.

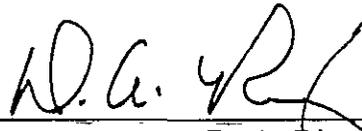
AWARD AND ORDER

Claim dismissed.

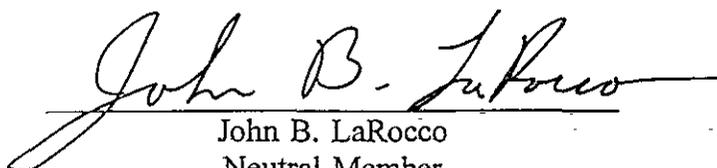
Dated: March 2, 1995



C. F. Foose
Employees' Member



D. A. Ring
Carrier Member



John B. LaRocco
Neutral Member