

PUBLIC LAW BOARD NO. 1582

PARTIES) THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY
TO)
DISPUTE) BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

STATEMENT OF CLAIM:

1. That the Carrier's decision to remove Southern Division Trackman T. L. Brown from service was unjust.

2. That the Carrier now reinstate Claimant Brown with seniority, vacation, all benefit rights unimpaired and pay for all wage loss as a result of investigation held January 9, 1984 continuing forward and/or otherwise made whole, because the Carrier did not introduce substantial, creditable evidence that proved that the Claimant violated the rules enumerated in their decision, and even if Claimant violated the rules enumerated in the decision, permanent removal from service is extreme and harsh discipline under the circumstances.

FINDINGS: This Public Law Board No. 1582 finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, and that this Board has jurisdiction.

In this dispute the claimant was charged with falsifying an application for employment. An investigation was held and pursuant to the investigation the claimant was discharged from the service of the Carrier, for falsifying his application.

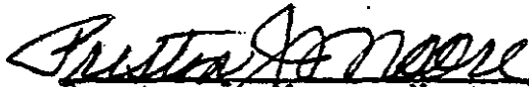
The evidence establishes that the claimant checked that he had never been convicted of a crime and the claimant had answered, no.


The Carrier introduced evidence that the claimant had in fact been found guilty of theft on two occasions and that such charges were felonies. The claimant testified that he pledged "no contender" (nolo contender) and the judge told him that it would not go against his record.

Perhaps, it is true the claimant was unaware that felonies had been placed against his record, but that it is immaterial for the reason that he was aware that he had been convicted and he made a false statement in the application. Making a false statement in a application, which would prevent the Carrier from employing the applicant is a justifiable cause for discharge.

Under the circumstances, there is no support for the claim.

AWARD: Claim denied.


Preston J. Moore, Neutral


Organization Member


Carrier Member

Dated at Chicago, Illinois
February 20, 1984.