

PUBLIC LAW BOARD NO. 1582

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

STATEMENT OF CLAIM: That the Carrier's decision to remove Plains Division Trackman-Truck Driver John M. Farrar from service was unjust; That the Carrier now reinstate Claimant Farrar with seniority, vacation, all benefit rights unimpaired and pay for all wage loss as a result of investigation held January 31, 1986 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 notified to attend a formal investigation in Amarillo, Texas, on January 31, 1986, concerning his alleged possession of marijuana on Company property near MP 615 on the Plainview Subdivision at approximately 2:00 pm on January 1, 1986. Also, concerning the alleged falsification on his application for employment dated February 20, 1979 and his stating that he had never been convicted of a crime. Pursuant to the investigation the claimant was found guilty and dismissed from the service of the Carrier.

Special Agent W. L. Hanna testified that he had received a phone call from Swisher County Deputy Sheriff Charles Figley which caused him to make an investigation concerning the claimant. He testified that on January 9 he located the claimant and told him that he would like to look at the items inside his van but that he did not have a search warrant and that the claimant did not have to let him look in the van. The claimant voluntarily signed permission. The van was parked on Company property adjacent to MP 615.

The Special Agent also checked the claimant's record and found that he had been convicted of unlawfully carrying a prohibited weapon. The judgment of the Court was introduced into evidence.

The claimant admitted that he signed the statement on his application that he had not been convicted of a crime. The claimant signed the statement that stated he understood that

any misrepresentation on that application was sufficient cause for discharge.

The entire transcript of 23 pages has been studied by the Board, and there is no evidence which would justify overruling the decision of the Carrier.

AWARD: Claim denied.

  
Preston J. Moore, Chairman

  
Union Member

  
Carrier Member

Dated at Chicago, Illinois  
May 6, 1986