

PUBLIC LAW BOARD NO. 2774

Award No. 133
Case No. 133

PARTIES
TO
DISPUTE

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

STATEMENT
OF CLAIM

- "1. That the dismissal of Trackman M. M. Navarez was without just and sufficient cause and in violation of the provisions of the current agreement.
2. That Carrier shall now be required to reinstate Claimant Navarez to his former position, that is, with seniority and all other rights restored unimpaired with compensation for all wage loss suffered."

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 had been employed by Carrier as a Trackman on July 16, 1983. Following an investigation, on August 8, 1983, claimant was removed from service and dismissed based on a charge that he had been using alcoholic beverages and was unable to safely perform his duties in violation of Carrier's rules. The evidence at the investigation revealed that claimant's Foreman smelled alcohol on his breath and he subsequently was found to have been drinking heavily until 1:30 in the morning the night before, reporting to work at 7:00 A.M. on Monday.

There is no doubt with respect to claimant's guilt in this matter. Carrier was justified in its conclusion that discipline was necessary. It is noted, however, that at the hearing claimant's representative recommended strongly that claimant be permitted to enter Carrier's Employee Assistance Program to attempt to deal with his alcohol problem. It is believed that in this instance, in view of claimant's past record, this recommendation warrants implementation. This is true, particularly in view of claimant's past record and ten years plus service

- 2 -

with Carrier. Therefore, it is this Board's view that claimant should be reinstated to his former position with all rights unimpaired without compensation for time lost, conditioned however upon a recommendation from the Employee Assistance Counselor that he is ready to return to work. Until and unless that recommendation is received, claimant will not be reinstated.

AWARD

Claim sustained in part in accordance with the findings above.

ORDER

Carrier will comply with the award herein within thirty (30) days from the date hereof.



I. M. Lieberman, Neutral-Chairman



G. M. Garmon, Carrier Member



C. F. Foote, Employee Member

Chicago, Illinois
April 30, 1985