

PUBLIC LAW BOARD NO. 2774

Award No. 177
Case No. 177

PARTIES .. Brotherhood of Maintenance of Way Employees
TO .. and
DISPUTE: Atchison Topeka & Santa Fe Railway Company

STATEMENT "1. That the Carrier's decision to dismiss
OF CLAIM: Trackman R. E. Jackson was unduly harsh
and was in abuse of Carrier discretionary
power.
2. That Carrier be required to return Claimant
Jackson to his former position with seniority
and all other rights unimpaired and that he
be compensated for all wage loss as a result
of Carrier's harsh action."

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 herein had been employed by Carrier in April of 1976 as a Trackman. On August 6, 1986, Claimant was arrested with seven other suspects during a drug bust in San Saba County, Texas. He was subsequently sentenced on October 23, 1986 to a ten year probation period, fined \$5,000 and ordered to pay court costs.

-2-

and also received 30 days in the county jail to be served each weekend for a 10-week period. In his testimony at the investigation, Claimant admitted that he had pled guilty to delivery of methamphetamine and, furthermore, the town that he lived in in San Saba was a small town with a population of approximately 2500 people. The night it was aired in the local newspaper on October 30, 1986, with the particulars of the circumstances, Claimant was charged with violating certain Carrier rules for the particular drug crime and following investigation was dismissed from service.

Rule 16 of Carrier's rules provides as follows:

"Employees must not be careless of the safety of themselves, or others; they must remain alert and attentive and plan their work to avoid injury. Employees must not be indifferent to duty, insubordinate, dishonest, immoral, quarrelsome or vicious. Employees must conduct themselves in a manner that will not bring discredit on their fellow employees or subject the company to criticism or loss of good will."

Petitioner argues that the discipline accorded Claimant was disproportionate to his guilt and, furthermore, the Court's decision certainly indicated that he could continue his employment and go about his day to day business as an ordinary citizen following the verdict. For that reason, the petitioning Organization insists that Claimant should be reinstated to his position.

Carrier argues that Claimant's admitted act involving drug delivery reflected conduct unbecoming an employee and which certainly could bring discredit upon his fellow employees and subject the Carrier to criticism and possible loss of good will. In addition, obviously his conduct was "immoral", in violation of Rule 16 in that context as well.

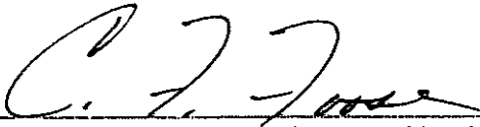
Situations such as that involved in this dispute have been dealt with by Boards in this industry on many occasions (see, for example, Award No. 8, Public Law Board 1324). Any offense dealing with illegal use or distribution of drugs is a grievous offense to an employer. Such an action by an employee obviously has an impairing effect upon the relationship between the employer and the employee and, furthermore, severely impairs the relationship between the employee and his fellow employees. Based on the entire record and the clear indication of Claimant's guilt by his own admission, Carrier was within its rights and certainly within its rules in its decision to dismiss the Claimant. The claim must be denied.

AWARD

Claim denied.



I. M. Lieberman. Neutral-Chairman



C. F. Foose, Employee Member



G. M. Garmon, Carrier Member

Chicago, Illinois
October 11, 1988