

PUBLIC LAW BOARD NO. 2774

Award No. 18  
Case No. 26

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

STATEMENT  
OF CLAIM

"1. That the Carrier violated the current Agreement when, on or about August 9, 1980 they dismissed Trackman Raymond Jim from the service, said dismissal being improper, excessive and entirely disproportionate to the offense committed.

2. That the Carrier shall now reinstate Trackman Raymond Jim to his former position with seniority, vacation and all other rights unimpaired and additionally compensate him for loss of earnings suffered account of Carrier's arbitrary and improper 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 had a seniority date of October 7, 1974 on the Systems Steel Gang. Claimant was dismissed from service by letter dated November 17, 1980 for failure to make a timely acceptance of a recall to service. The facts indicate that Claimant was instructed to report to Gallop, New Mexico at 8:00 a.m. on August 9, 1980 for transportation by chartered bus to Romeoville, Illinois for duty commencing Monday, August 11, 1980. While on route to Gallop from his home in Arizona, Claimant encountered automobile problems with the result that he arrived in Gallop approximately fifteen minutes after the bus had departed. The record indicates that he immediately contacted the employment supervisor in Gallop with the problem but was advised that because of late arrival his services were being terminated.

It is clear that Carrier terminated Claimant for failing to report for work on recall to Romeoville, Illinois on the morning of August 11, 1980. The only dispute with

respect to the facts is whether he was told prior to August 11, that is on August 9 as he alleges, that he was terminated at that time or not. In any event, it is obvious that Claimant's services were terminated because of his being fifteen or twenty minutes late in arriving at Gallop for transportation by bus to his new assignment point. This was not considered to be a disciplinary matter but one merely of a self-executing rule.

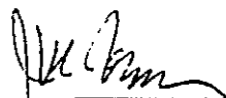
In the Board's view the circumstances involved herein did not warrant discharge contrary to Carrier's position. Claimant did indeed report to duty at Gallop as required however, he was late as indicated by all concerned. While Carrier is correct that the rule is self-executing and does not constitute a disciplinary measure, it is nevertheless a fact that a fifteen minute tardiness, in this instance, caused Claimant to lose his job. Under all the circumstances the Board does not consider this to be an appropriate resolution of the dispute. Nevertheless Claimant must suffer the consequences of not reporting in timely fashion. The Board concludes therefore, that Claimant should be reinstated to his former position with all rights unimpaired but will not be compensated for loss of earnings suffered because of his tardiness on the date in question.

AWARD

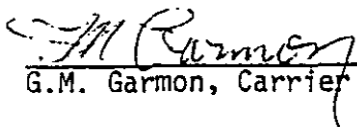
Claim sustained in part; Claimant will be reinstated to his former position with all rights unimpaired but will not be compensated for time lost.

ORDER

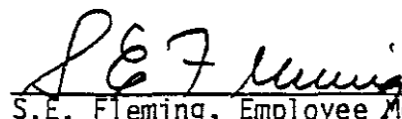
Carrier will comply with the Award herein within thirty (30) days from the date hereof.



I.M. Lieberman, Neutral-Chairman



G.M. Garmon, Carrier Member



S.E. Fleming, Employee Member

January , 1982  
Chicago, IL