

PUBLIC LAW BOARD NO. 2774

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

STATEMENT OF CLAIM:

1. That the Carrier's decision to remove Southern Region Trackman, Joe Alexander, was unjust.
2. That the Claimant now be reinstated to his former position with seniority and all other rights unimpaired, and compensated for all loss of wages.

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.

The record indicates that on the morning of September 11, 1991, Claimant was picked up by a fellow employee at his residence and reported for work at 5:00 A.M. At the starting time, Claimant was not at his designated spot, instead he was asleep in his fellow employee's car. The foreman and the other employee spent approximately 10 minutes trying to wake up Claimant. Once he was awakened, the foreman noticed that he acted rather unusually and smelled of alcohol. He instructed the other employee to drive Claimant to a motel to "sleep it off" since he was obviously in no condition to perform service. Following an investigation, Claimant was found guilty of being under the influence of alcohol in violation of Carrier's rules and was dismissed from service. In the course of

the investigation it is clear that Claimant admitted that he was under the influence of alcohol when he reported for work on the morning in question. It is noted that Claimant participated in a treatment program, with the Carrier's Employee Assistance Counselor, subsequently, and cooperated fully with Carrier in this respect.

While leniency is a matter for Carrier, rather than Boards such as this to administer, it is clear that in this instance a review of the nature of the particular offense and Claimant's actions, Carrier could indeed have used a less serious form of discipline. In this instance, it is obvious that Claimant, a long-service employee, should have been permitted to return to service subject to proper verification of his ability to work without being under the influence of alcohol. For that reason the Board will order Claimant's reinstatement, without pay for time lost, subject to a clearance from Carrier's Employee Assistance Counselor.

AWARD

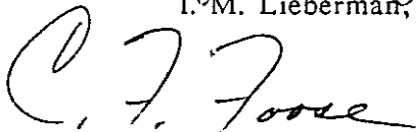
Claim sustained in part as indicated supra.

ORDER

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



I. M. Lieberman, Neutral-Chairman



C. F. Foose
Employee Member



Lyle Pope
Carrier Member

Schaumburg, Illinois
June, 1993

July 6