

PUBLIC LAW BOARD NO. 2774

PARTIES
TO
DISPUTE:

Brotherhood of Maintenance of Way Employees

and

Atchison, Topeka & Santa Fe Railway Co.

STATEMENT OF CLAIM:

1. That the Carrier is in violation of the current Agreement, when it dismissed Central Region Trackman/Truck Driver, J. V. Salazar, from the service of the Carrier, without consideration of due process and the rules of fair play.
2. That the Carrier now be required to reinstate Claimant with all seniority, vacation and benefit rights and compensated for all wage and lump sum loss beginning December 18, 1991 and continuing forward.

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 a Trackman/Truck Driver for Carrier. By letter dated December 20, 1991, Claimant was notified to report for an investigation concerning the report, alleging his misuse of Company credit cards between July 1, 1991 and December 17, 1991. Following the investigation, Claimant was found guilty of violation of Carrier's rules, and was dismissed from service. He had been a truck driver since 1977.

The evidence of record in this matter shows clearly that Claimant used Company credit cards to secure cash for his personal needs. His testimony indicated some severe personal problems. Perhaps the most succinct statement of what occurred, was contained in a statement given by Claimant, to Carrier's Special Agent, which stated in pertinent part:

I started using the Santa Fe Credit Card when I had to wash the Company's trucks. I sometimes would not wash the trucks and use the money to either get me home or help me get something to eat. There were times, however, I would wash the trucks, but I am willing to pay it all back.

In essence, the Organization indicates that the penalty of dismissal was too severe and that Claimant was remorseful and promised to pay back all the monies he took. Carrier, on the other hand, indicates that dishonesty, as characterized by Claimant's actions here, is not tolerable. It was estimated that Claimant misused or took approximately \$1,000 from Carrier by the misuse of the credit cards.

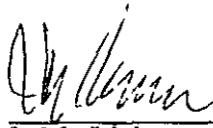
There are many other Awards throughout the industry dealing with the problem of theft of Company property. In this dispute, the misuse of Company credit cards, admitted by Claimant, is tantamount to outright theft. As this Board said in Award No. 125:

Concerning the nature of the discipline in this instance, misappropriation of Company property, which Claimant admitted in a signed statement he had done, as well as in his testimony, is the most serious transgression one could conceive of in an employment situation. There is no basis for the assertion that the measure of discipline was inappropriate. The discipline was well within the discretion of Carrier, and in no sense can be considered to have been arbitrary or capricious. . . .

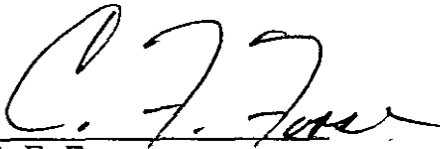
In the case at bar, there is no question but that Claimant was guilty, and furthermore his statements concerning remorse and willingness to make restitution are inadequate in view of the nature of the transgression. Carrier's decision was appropriate and clearly was neither arbitrary nor capricious. The claim must be denied.

AWARD

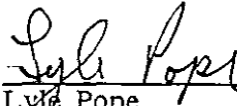
Claim denied.



I. M. Lieberman, Neutral-Chairman



C. F. Foose
Employee Member



Lyle Pope
Carrier Member

Schaumburg, Illinois

~~June 30~~, 1993

July 4, 1993