

PUBLIC LAW BOARD NO. 2774

Award No. 24
Case No. 32

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

STATEMENT "1. That the Carrier violated the Agreement when on January 19, 1981, they
OF CLAIM terminated the services of Illinois Division Trackman Jack Banks, said termination being unjust and as a result of intimidation and coercion.

2. That Claimant Banks be reinstated to the service with seniority and all other rights unimpaired and additionally be compensated for loss of earnings incurred on account of Carrier's improper action."

FINDINGS

Upon the whole record, after hearing, the Board finds that the parties herein are Carrier and Employee 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 was asked to report for an investigation with respect to his alleged responsibility for using a Company credit card for purchasing gasoline for use in his personal automobile; this charge and notification was dated January 14, 1981 and the investigation was scheduled for January 23. On January 19, 1981, Claimant met with the Roadmaster and following a discussion with the Roadmaster, resigned from Carrier's service. The Roadmaster indicated in a letter, which is part of the record, that Claimant admitted that he had misused Carrier's credit card to purchase gasoline for his own car and had questioned the Roadmaster extensively about the alternatives open to him at that time. The Organization implies that Carrier coerced the Claimant into resigning on that day. However, the record contains no evidence to support such a conclusion.

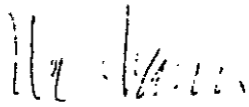
On a prima facie basis, the record indicates that the Claimant did indeed resign voluntarily and by this action severed his ties with the Company and included in those rights

the right to an investigative hearing.

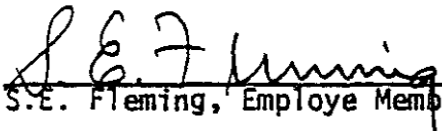
Based on the entire record of this matter, the Board must conclude that this case involves a voluntary resignation rather than an unjust termination and as a result the claim must be denied.

AWARD

Claim denied.



I.M. Lieberman, Neutral-Chairman



S.E. Fleming, Employee Member



G.M. Garmon, Carrier Member

May 13, 1982
Chicago, Illinois