

PUBLIC LAW BOARD NO. 2774

Award No. 25
Case No. 33

PARTIES
TO
DISPUTE

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

STATEMENT
OF CLAIM

- "1. That the dismissal of Plains Division Trackman J.R. Navarro, was unjust.
2. That Claimant Navarro be reinstated to service with seniority, vacation, all benefit rights unimpaired, pay for wage lost and/or otherwise made whole."

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.

Following a formal investigation held on November 14, 1980, Claimant was discharged for allegedly falsifying his application for employment by answering that he had never been convicted of a crime. Claimant had been hired on April 7, 1980.

The record indicates that prior to Claimant's employment, Carrier found that on September 10, 1977 he had been arrested for possession of marijuana and for operating an automobile without a drivers license. He plead guilty to the lesser charge of driving without a drivers license and was fined. Further, on June 26, 1978, Claimant was arrested and charged with driving while under the influence of an intoxicant and pleaded guilty and was fined and was to serve thirty days in jail which was changed to probation for one year. On September 29, 1978 Claimant was arrested and charged with drunk driving while under the influence of alcohol and public intoxication and also running a stop sign. He received a total fine of \$50. On February 24, 1979 Claimant was arrested and charged with driving while under the influence of alcohol. He was subsequently

transferred to County Jail and having plead guilty to the charge, was fined a \$100 and sentenced to serve five days in the County Jail.

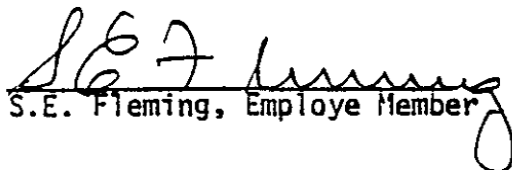
The record also indicates that Claimant did indeed answer in the negative on his employment application when asked specifically have you ever been convicted of a crime. Furthermore, the application indicates at the signature line "I understand that any misrepresentative in this application is sufficient cause for discharge."

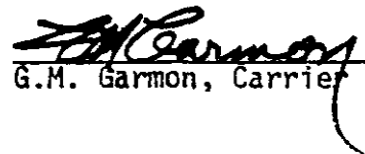
The Board finds that Carrier had ample basis from the evidence adduced at the hearing to sustain its conclusion that Claimant be dismissed. He was guilty of the charge. Thus, the claim must be denied.

AWARD

Claim denied.


I.M. Lieberman, Neutral-Chairman


S.E. Fleming, Employee Member


G.M. Garmon, Carrier Member

May 13, 1982
Chicago, IL