

PUBLIC LAW BOARD NO. 2774

Award No. 28
Case No. 37

PARTIES
TO
DISPUTE

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

STATEMENT
OF CLAIM

- "1. That the dismissal of Colorado Division Bridge and Building Mechanic T.P. Scanlan was unjust.
2. That Claimant T.P. Scanlan be reinstated to service with seniority, vacation, all benefit rights unimpaired, pay for wage loss 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.

Claimant herein had been employed by Carrier on April 27, 1979 and was promoted to a B & B Mechanics position on September 17, 1980. The record indicates that Claimant was discharged following an investigation held on November 18, 1980 after having been removed from service on November 11, 1980.

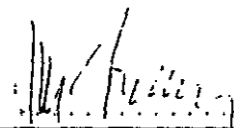
The transcript of the investigation indicates that Claimant and another employee under the influence of alcoholic beverages, went to a location of Carrier's property and with a rifle Claimant shot at Carrier's compressor and at a foreman's bunk car doing extensive damage to the compressor as well as marring the bunk car. These facts were not in dispute and were the basis for Carrier's action in discharging Claimant.

Petitioner indicates that Claimant had expressed regret and apologized for the incident in question and desired to make some restitution for the damage that he had caused. He in fact, made one payment to Carrier for such damage. Carrier, on the other hand,

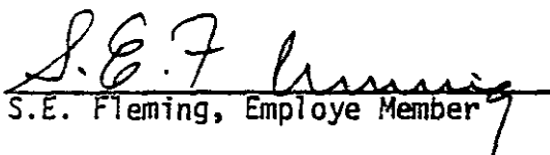
was well within its rights in determining that Claimant was guilty. The testimony at the hearing was clear and unequivocal to that effect and under all the circumstances Claimant's regret is insufficient to deter the judgment of Carrier from being affirmed. Thus, the claim must be denied.

AWARD

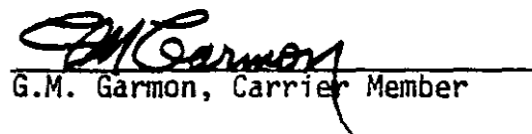
Claim denied.



I.M. Lieberman, Neutral-Chairman



S.E. Fleming, Employee Member



G.M. Garmon, Carrier Member

May 13, 1982
Chicago, IL