

PUBLIC LAW BOARD NO. 2774

Award No. 40
Case No. 49

PARTIES
TO
DISPUTE

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

STATEMENT
OF CLAIM

- "1. That the dismissals of Middle Division Trackman H.C. Young, April 30, 1981 and May 12, 1981 after two formal investigations April 24, 1981 were unjust and excessive.
2. That Claimant H.C. Young 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, following investigation, was removed from service for engaging in and entering into an altercation with a fellow employee and in addition, being quarrelsome and "vicious" towards three Carrier officials on April 8, 1981.

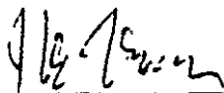
The transcript of the investigation reveals that on April 8, 1981 Claimant entered into a fight with a fellow employee. Even though the record is unclear as to who threw the first blow, it is quite clear that both employees were violent and furthermore, Claimant had an icepick in his hand when he invited the other employee to finish the fight after they had been separated. Furthermore, it is also clear that Claimant was quarrelsome and hostile, at minimum, to various Carrier officers after being taken to the hospital for treatment of the injuries he received in the course of the earlier altercation.

Dismissal for engaging in fights has long been held to be appropriate in this indus-

try as well as in other industries throughout the country. Furthermore, in this instance, Claimant had engaged in similar conduct just prior to the incident involved in the critical period under investigation in this matter. Hence, his action in engaging in a fight was neither new nor warranted under any circumstances particularly in view of his past record which is far from exemplary. The Carrier was eminently justified, based on the conclusion which was unquestionable that he engaged in a fight, to dismiss him. Hence the claim must be denied.

AWARD

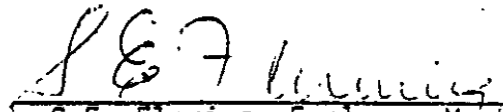
Claim denied.



F.M. Lieberman, Neutral-Chairman



G.M. Garmon, Carrier Member



S.E. Fleming, Employee Member

December 31 , 1982
Chicago, IL