

PUBLIC LAW BOARD NO. 2774

Award No. 42  
Case No. 51

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 Middle Division Trackman Ceasar Davis after formal investigation May 21, 1981 was unjust.
2. That Claimant Ceasar Davis 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 here in 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 employed by Carrier on July 28, 1977. On May 21, 1981 an investigation was held with respect to the allegation that Claimant had falsified and avoided information on his application form for employment which would have prevented him from being employed by Carrier. Following the investigation he was dismissed from service for the reason indicated.

The record of the investigation indicates that Claimant had been involved in four on-duty injuries starting in February of 1979. During the final claim on July 16, 1980 the Carrier investigated his background and found that he had received a twenty-five percent partial permanent disability with respect to manual labor previously in an Award from the State Industrial Court. This had occurred while he had been working for the Oklahoma City Water Department. The record indicates that on the employment application Claimant stated that he did not have any disabilities or limitations. Carrier argues that in view of the fact that Claimant had been awarded

a permanent partial disability, he clearly falsified the statement on his application which would have been critical with respect to his being hired.


It is apparent that the misrepresentation or falsification of material information with respect to employment is a serious violation which justifies permanent dismissal. In view of the most significant nature of Claimant's violation herein, particularly in view of the fact that he had had several disability claims during his relatively short tenure with the Carrier, the decision to terminate him was neither harsh nor arbitrary and was amply justified by the record.

AWARD

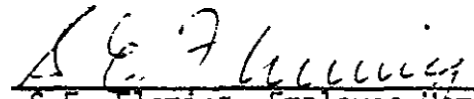
Claim denied.



I.M. Lieberman, Neutral Chairman



G.M. Garmon, Carrier Member



S.E. Fleming, Employee Member

December 31, 1982  
Chicago, IL