

Award No. ²³
Case No. 55

Public Law Board No. 2778

PARTIES
TO
DISPUTE:

Brotherhood of Maintenance of Way Employees
and
Baltimore and Ohio Railroad Company

STATEMENT
OF
CLAIM:

Trackman C. E. Foraker was dismissed unjustly and should be restored to service in accordance with Rule 48(e).

FINDINGS:

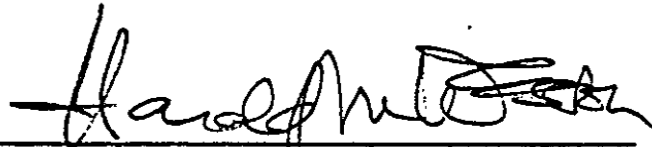
Claimant was dismissed on the basis of Carrier's findings that he had filled the tank of his own car with some 15-20 gallons of gasoline that he had taken without permission from one of Carrier's storage tanks. There is substantial evidence in the record that supports these findings; the evidence also indicates that claimant had taken gas for his own use from the storage tank on prior occasions.

Claimant admitted taking the gasoline without permission for his own use. He testified that he had used his own automobile at times during working hours to assist Carrier in hauling men and material and, on the Saturday in question, to inspect tracks for vandalism reported by a friend called "Cherokee" who claimant happened to meet.

In this setting, no valid ground is perceived for setting aside Carrier's findings of fact or reversing its decision to dismiss claimant.

AWARD: Claim denied.

Adopted at Baltimore, Maryland, *February 22,* 1984.



Harold M. Weston, Chairman



Carrier Member



Employee Member