

Award No. 230

Docket No. 230

Mopac File 247-6834

Parties Brotherhood of Maintenance of Way Employees
to and

Dispute: Missouri Pacific Railroad Company

Statement

of Claim: 1. Carrier violated the effective Agreement when
Trackman J. T. Yazzie was unjustly dismissed
on September 20, 1984.

2. Claimant Yazzie shall now be paid for eight
(8) hours each work day, including any holidays
falling therein and any overtime which would
have accrued to him, beginning September 20,
1984, continuing until reinstated to service
with seniority, vacation and other rights restored.

Findings: The Board, after hearing upon the whole record
and all evidence, finds that the parties herein are Carrier
and Employee within the meaning of the Railway Labor Act,
as amended, that this Board is duly constituted by Agree-
ment dated January 5, 1959, that it has jurisdiction of the
parties and the subject matter, and that the parties were
given due notice of the hearing held.

Claimant, on July 20, 1984, was assigned as a Trackman
on System Rail Gang 6803. He and a fellow employee, J.
Nuez, were instructed by the Gang Foreman to take the Gang's
bus and ordered to replenish the Gang's water supply in
five water containers. The two subsequently returned with
the water cans. The Foreman instructed Claimant to take
the bus and distribute the water cans throughout the Gang

and instructed Trackman Nuez to resume his normal duties. However, Trackman Nuez boarded the Gang bus again and proceeded down the track with Claimant Yazzie.

Subsequently, after both Claimants failed to return after distributing the water cans, a Trackman advised the Assistant Foreman that he had observed Claimant and Mr. Nuez operating the gang bus in the town of Weeping Water, Nebraska, that they had stopped and purchased some alcoholic beverages. Another Trackman driver reported that he later found Claimant Yazzie and Mr. Nuez lying in a corn field some two miles east of where the gang was working and that both employees were found to be under the influence of intoxicant.

Later, the Assistant Foreman Clark searched the gang's outfit cars. He found Claimant Yazzie to be under the influence of intoxicant. Mr. Nuez elected to execute a written resignation. The Claimant was advised, in writing, that he was being suspended pending investigation in connection with the incident.

A notice of formal investigation was sent to and received by the Claimant. He failed to appear at the scheduled investigation. It was then held in absentia in the presence of a BMWE Local Chairman.


As a result of that investigation, Carrier concluded Claimant to be guilty therefrom. He was dismissed from service. The Board finds that Claimant was accorded the

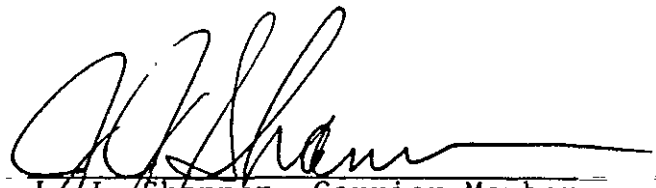
due process to which entitled under his Discipline Rule.

There was sufficient evidence adduced to support Carrier's conclusion that Claimant had violated General Rule G.

In light of the serious nature of the offense and Claimant's short and less than satisfactory record the discipline is found to be reasonable. This claim will be denied.

Award: Claim denied.


M. A. Christie, Employee Member


J. J. Shannon, Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member

Issued August 23, 1986.