

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 249

Case No. 249
File 247-2727

Parties Brotherhood of Maintenance of Way Employees
to and
Dispute Union Pacific Railroad Company

Statement

of Claim: (1) Carrier violated Agreement Rule 12 when it assessed a fifteen-day deferred suspension against the personal record of Machine Operator T. L. Absher.

(2) Claimant Absher's personal record should now be cleared of the 15 days' deferred suspension and he should be allowed eight (8) hours for the day of the investigation, September 27, 1983, at his regular rate of pay.

The Board has jurisdiction of this case.

Eight cars of local freight No. 425, derailed on September 23, 1983 at, on, or near, a road crossing recently tamped by Claimant Machine Operator's Tamper Machine. Carrier's investigation, after the cars were removed, the crossing cleared and cross ties removed for analysis, disclosed that only one of the ten ties under the crossing were of sufficient quality to support the steel rails and that the others were rotted.

Claimant was charged with:

"Failure to properly perform your duties by not plowing out the road crossing near MP 215 on the Kellogg Lead on August 26, 1982 when you lined and tamped it which resulted in the derailment of Local 425-03."

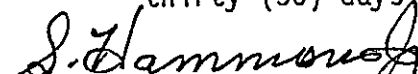
He was adjudged culpable and given a fifteen deferred suspension which is here appealed.

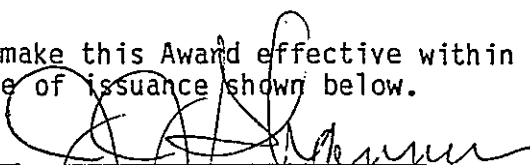
Carrier did not have adequate evidence before it to support the conclusions that Claimant was guilty.

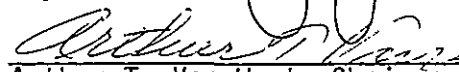
This claim will be sustained.

Award: Claim sustained.

Order: Carrier is directed to make this Award effective within thirty (30) days of date of issuance shown below.


S. Hammons, Jr., Employee Member


J. J. Shannon, Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member

Issued May 28, 1988.