

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 338

Case No. 338
File No. 860050

Parties to Dispute Brotherhood of Maintenance of Way Employees and
Union Pacific Railroad Company
(Former Missouri Pacific Railroad Company)

Statement of Claim: (1) Carrier violated the Agreement, especially Rule 12, when Trackman C. T. Martin was dismissed from the service on June 13, 1986.
(2) Claimant Martin should now, therefore, be allowed compensation for time lost from June 13, 1986 until reinstated with all past privileges, vacation and seniority rights unimpaired.

Findings: The Board has jurisdiction by reason of the parties Agreement establishing this Board.

Claimant Trackman was working with Gang 5122 on June 12, 1986 as a Trackman-Driver in the vicinity of Washington, Missouri. Gang members were instructed about 2:30 PM on June 12 to stop working, eat in or rest, as they wanted, but to return to the work site no later than 7:00 PM in order to begin rebuilding the north track. Claimant advised that he would get something to eat but would prefer to stay on continuous time and not have a break in his service. He had been working with a Burrow Crane Operator and both left shortly thereafter to get something to eat. The Burrow Crane Operator returned, about 3:15 PM, but Claimant failed to return.

A Foreman working in Claimant Martin's area observed Claimant about 7:15 PM. He believed that the Claimant was handling a crow bar in a careless manner and asked the Roadmaster to observe his behavior. The Roadmaster concluded that he was behaving in a manner dangerous to himself and others at the job site. He approached Claimant, smelled alcohol on his breath and observing that he was in an unstable condition advised him to accompany him to discuss the matter with Assistant Trainmaster Hullihan. All three supervisors concluded that Claimant was swaying, staggering, that Claimant's speech was slurred and that Claimant had an odor of alcohol on his breath. Claimant advised both officers that he had 6 or 7 beers, and that he was still able to perform his job. The Roadmaster removed Claimant from service and advised him to contact the Employee Assistance Program.

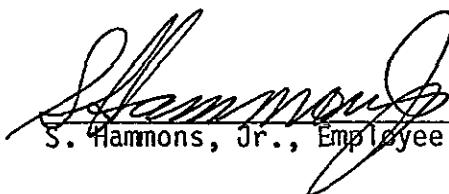
A notice of formal investigation was sent to Claimant on June 13 to appear at an investigation to be held on June 17, 1986 on the charge of Rule G. Carrier concluded therefrom that Claimant was guilty of the charges preferred against him. He was dismissed from service as discipline therefor.

There are no procedural violations reflected in the record.

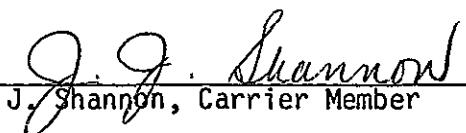
There was sufficient evidence adduced to support Carrier's conclusion as to Claimant's violation of Rule G and Item 5, Conditions of Employment concerning Rule G. Claimant's admission standing alone would be a sufficient basis for supporting a violation of Rule G. It has been long held in this industry that employees, including supervisors, are good judges as to the physical condition of their fellow employee. The Claimant exhibited the classic symptoms of a person under the influence of alcohol.

Claimant has refused to participate in the Employee Assistant Program. There is no cause in this record to cause the Board to interfere with Carrier's appropriate discipline. This claim will be denied.

Award: Claim denied.



S. Hammons, Jr., Employee Member



J. J. Shannon
J. J. Shannon, Carrier Member



Arthur T. Van Wart
Arthur T. Van Wart, Chairman
and Neutral Member

Issued July 13, 1989.