

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 341

Case No. 341  
File No. 860005

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

Statement

of Claim: (1) Carrier violated the Agreement, especially Rule 12,  
when Trackman R. J. Mallet was dismissed from the  
service on August 15, 1986.

(2) Claimant Mallet should now, therefore, be allowed  
compensation for time lost from August 15, 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, prior to and subsequent to July 10-  
11, 1986, was a member of Track Gang 5537 working in the  
vicinity of Opelousas, Louisiana.

The Claimant did not show up to protect his assignment  
on July 10-11, 1986. He did not have authority to be absent  
from work on those two dates nor did he offer any  
explanation as to why he was not at work.

Claimant reported for duty on July 12, 1986. When his  
Foreman inquired as to why he was not at work on July 10 or  
11 the Claimant refused to offer any explanation.

Charges were placed against Claimant and a notice of  
formal investigation was served on Claimant by his Track  
Foreman which he acknowledged receipt on July 14. The July  
17 investigation was postponed by the General Chairman and  
it was rescheduled for 10:00 AM on August 13, 1986. The  
Claimant failed to appear on August 13 at 10:00 AM. The  
hearing was delayed and a search made of the hearing site.  
Midway through the investigation another search was  
conducted but Claimant neither appeared nor called. Hence  
the investigation proceeded in absentia and concluded at  
11:45 AM on August 13.

Claimant appeared at the Depot in Opelousas shortly  
after noon. He advised the Hearing Officer that he had  
misread the notice of postponement. However, the

investigation was not reopened for further testimony at that time.

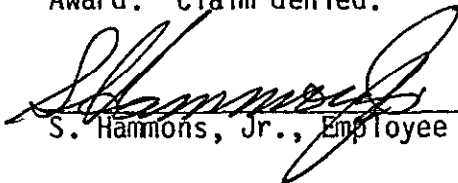
The Superintendent concluded from the transcript that Claimant was in violation of Item 5 of the conditions of employment, General Rule B and Rules 600 and 604 of the Safety Radio and General Rules for all Employees. He was dismissed from service as discipline therefor.

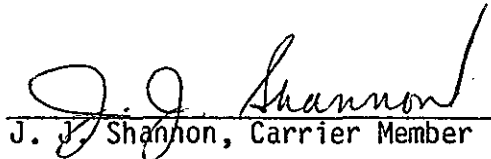
Claimant was accorded the due process to which entitled under Rule 12. He was notified by his Foreman. Exhibit A of the transcript reflects that the Claimant was notified as to the original investigation to be held for which he signed. The Foreman testified that he delivered the message for the postponement thereof which advised of the rescheduled date at 10:00 AM on Wednesday, August 13, 1987. Hence we find no error so egregious as to be cause for reversal of the discipline.

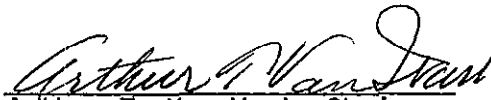
There was sufficient evidence adduced to support Carrier's conclusion as to Claimant culpability.

The discipline in light of Claimant's poor service record is deemed to be reasonable. This claim will be denied.

Award: Claim denied.

  
S. Hammons, Jr., Employee Member

  
J. J. Shannon, Carrier Member

  
Arthur T. Van Wart, Chairman  
and Neutral Member

Issued July 13, 1989.