

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 384

Case No. 384
File 870915G

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

Statement

of Claim: (1) Carrier violated the Agreement, especially Rule 12, when Welder Helper G. E. Hickman was assessed a 15 day deferred suspension.

(2) Claim in behalf of Welder Helper Hickman for removal of discipline from Mr. Hickman's record.

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

Claimant Welder Helper was found sleeping on duty by General Roadmaster Kreifels at 11:20 AM on July 16, 1987. Following a formal investigation on that charge, he received the discipline here appealed. The letter of discipline charged:

"You were lying under your vehicle in violations of Rule 4163 of the Safety, Radio and General Rules for all employees effective April 28, 1985..."

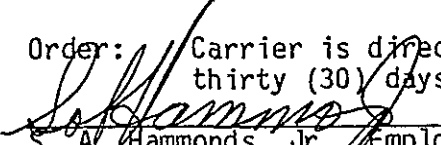
Rule 602 reading:

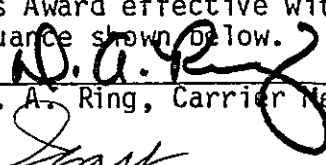
"Employees must not sleep while on duty. Employees in a reclining position with his eyes closed will be considered in violation of this rule."

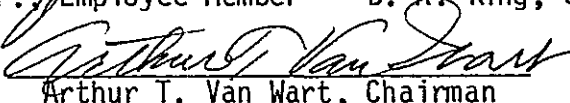
The rules cited at the investigation and the rule Claimant was found guilty of are two different rules. Therefore, this claim will be sustained on the basis that he was found to have violated a different rule not introduced at the investigation.

Award: Claim sustained.

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


S. A. Hammonds, Jr., Employee Member


D. A. Ring, Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member