

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 486

Case No. 486
File 900338

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

Statement

of Claim: 1. Carrier violated the Agreement, especially Rule 12, when D. Knowles, Jr. was assessed a thirty-day suspension and disqualified as a Machine Operator Helper.

2. Claim in behalf of Mr. Knowles to remove the discipline from his record, make him whole for all wage loss suffered, restore his helper's seniority, on all rosters where he retained same and restored his seniority, vacation, insurance and all other benefits due him.

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

The Claimant, Machine Operator Helper Daniel Knowles, as a result of a formal investigation held on February 21, 1990, on the charge of responsibility in connection with personal injury suffered by a Machine Operator Helper, K. W. Carson, on February 6, 1990, was found to be culpable of the charge placed against him. He was given a thirty (30) days suspension as discipline therefor.

The Claimant was accorded the due process to which entitled under Rule 12.

The record developed thereat permitted Carrier, as the trier of the facts, to conclude that Claimant was culpable. Carrier was not arbitrary. The existence of a difference in opinion as to the weighing of the facts is not a matter for the Board to pass upon so long as Carrier has not acted arbitrary or capriciously.

Nonetheless, the Board finds that the discipline should be reduced to fifteen (15) days. The Board also recommends that Carrier give consideration to restoring the Claimant's Helper seniority.

Award: Claim disposed of as per findings.

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

Sol Hammons Jr.
S. A. Hammons, Jr. Employee Member

D.A. Ring
D. A. Ring, Carrier Member

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

Issued September 26, 1991.