

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 487

Case No. 487

File 900351

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

Statement

of Claim: Claim of Trackman B. L. Johnson, SSN 437-90-8640 for eight (8) hours each work day including applicable overtime and holidays, that would have accrued to him beginning May 3, 1990 and continuing.

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

The Claimant Trackman was notified under date of May 5, 1990 to attend a formal investigation to be held on May 14, 1990 on the charge:

"...that you failed to comply with instructions of Manager of Track Maintenance Gary Swain when you were off unauthorized on May 2, 1990 and made life threatening remarks to MTM Gary Swain at approximately 8:00 p.m. on May 2, 1990 during telephone conversations with MTM Gary Swain at his home residence while employed as Trackman on Gang 1630..."

Carrier concluded therefrom that Claimant was culpable. He was dismissed from service as discipline therefor.

Claimant was accorded the due process required by Rule 12. There was no error so egregious as to be cause for reversal of discipline.

There was sufficient evidence adduced by the Carrier as to Claimant's culpability. Clearly, the Claimant had been instructed to call MTM Swain if he needed to miss another day for whatever reason, that fact was corroborated by Foreman Selders. The profane and life threatening remarks to the Manager by Claimant were recorded with his knowledge. The Claimant concurred that tape reflected his conversation.

In the circumstances, the discipline is found to be reasonable. This claim will be denied.

Award: Claim denied.

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.