

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 503

Case No. 503  
File 900618

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

Statement  
of Claim: Claim on behalf of D. H. Ross, SSN 290-64-5117 who was  
dismissed account he was found to be in violation of Carrier  
rules due to his operating a Company vehicle without  
authority; being involved in an accident while operating the  
vehicle without authority at which he was at fault; and,  
being charged with "driving while intoxicated."

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

On August 17, 1990 a formal notice of investigation was  
sent to the Claimant advising him of an investigation to be  
held on August 28 on the charges that:

"...at approximately 8:00 P.M. on July 28, 1990, in the  
vicinity of East Atchinson, MO, you were allegedly  
involved in a motor vehicle accident with Unit 64235 in  
which a non-railroad vehicle was damaged. You were  
cited for following too closely and subsequently  
arrested for driving under the influence..."

The Carrier concluded therefrom that Claimant was  
culpable of the charge. He was dismissed from service as  
discipline therefor.

There was sufficient evidence adduced to support  
Carrier's conclusion that Claimant was guilty of the charge  
placed against him. The record reflects the court documents  
would show that Claimant was ticketed for driving under the  
influence and following too close. He entered a plea of  
guilty to the charge of driving with an excessive blood  
alcohol content, was fined \$300 and ordered to complete the  
ARTOP Program within sixty (60) days. While he completed  
the said program, he never paid the fine and has been  
directed to reappear in court.

Claimant admitted to the Manager of Maintenance of Way  
Equipment (1) that he did not have permission to take the  
truck; (2) that he had hit the car and had been arrested for  
DWI, (3) that he had been tested 1.1 for blood alcohol and

also had received a citation for following too close.

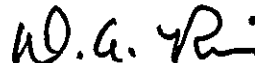
Although the investigation was held in absentia because of Claimant's absence therefrom he is nevertheless bound by the record developed thereat.

The discipline, in light of Claimant's personal record, is not found to be unreasonable. This claim will be denied.

Award: Claim denied.



S. A. Hammons, Jr., Employee Member



D. A. Ring, Carrier Member



Arthur T. Van Wart, Chairman  
and Neutral Member

Issued November 30, 1991.