

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 506

Docket No. 506
File 900617

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

Statement of Claim:

(1) Carrier violated the Agreement, especially Rule 12, when Track Foreman A. P. Vera was dismissed on July 10, 1990.

(2) Claim on behalf of Mr. Vera for wage loss suffered, until reinstated with seniority, vacation and all other rights unimpaired.

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

On June 29, 1990, the Claimant, Track Foreman A. P. Vera, was notified to attend a formal investigation on the charge:

"...that (1) you allegedly falsified personal injury report dated June 28, 1990, which allegedly occurred at approximately 3:00 PM, June 13, 1990, and (2) your alleged failure to report the injury on a timely manner while you were working as Track Foreman on Gang 1008 working in the vicinity of Texarkana, Texas."

The Carrier concluded therefrom that the Claimant was culpable. He was dismissed from service on July 10, 1990 as discipline therefor.

Claimant was accorded the due process to which entitled under his discipline rule.

There was sufficient evidence adduced to support Carrier's conclusion of culpability. The record reflected that Claimant, on June 18, 1990, reported to work wearing a back brace. When asked if he had hurt himself, the Claimant advised that he had hurt his back "a little bit" and that he thought he had done so on June 13, 1990 while lifting buggies. However, the Machine Operator with whom he was working on that date testified that at no time had the Claimant given him any indication of being in pain or being hurt. The Claimant did testify that "I just didn't fill it

out in the proper time that it was supposed to be filled out."

Notwithstanding, the Board finds cause for reinstating the Claimant to service with all rights unimpaired but without pay for the time held out of service with the admonition to henceforth properly and timely comply with Rule E.

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.


S. A. Hammons, Jr., Employee Member


R. O. Rock, Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member

Issued March 24, 1992.