

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 518

Docket No. 518

File 910033

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

Statement

of Claim: (1) Carrier violated the Agreement, especially Rule 12, when Machine Operator W. P. Robinson was assessed a 15-day deferred suspension on September 14, 1990.

(2) Claim on behalf of Mr. Robinson that the 15-day deferred suspension be removed from his record.

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

The Claimant, Machine Operator W. P. Robinson, was the other Machine Operator involved in the collision covered by our Award No. 517, the findings of which, by reference, are incorporated herein.

The Claimant, was the Machine Operator of TMT 189, a tamper, which was run into by Machine Operator J. H. Moore, on BR-65. The Claimant received 15 days deferred suspension for his failure to report the collision.

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

There was sufficient evidence adduced that would permit the Carrier to reach the conclusion that it did as it related to this Claimant's culpability. However, the circumstances of Claimant's activities are such that the benefit of the doubt should rightfully be accorded to him. Thus, the Carrier failed to prove that Claimant's actions were willful.

This claim will be sustained and Claimant's record cleared.

Award: Claim sustained.

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.