

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 531

Docket No. 531

File 910227

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

Statement

of Claim: 1. Carrier violated the agreement, especially Rule 12,
when Machine Operator A. L. Lewis was dismissed on November
28, 1990.

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

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

The Claimant, Machine Operator A. L. Lewis, Jr.,
attended a formal investigation held, on November 13, 1990,
on the charge:

"...that on October 4, 1990 in the vicinity of Nehamh
County, Nebraska, your allegedly convicted of possession of
marijuana."

Carrier, as a result thereof, concluded Claimant to be
culpable. He was dismissed from service as discipline
therefor.

Carrier's Rule 607 - Conduct, - in part, reads:

"The conduct of any employee leading to a conviction of any
misdemeanor involving moral turpitude (including without
limitation, the unlawful use of, possession, manufacture,
distribution, dispensation or transportation of any illegal
drug or controlled substance) or any felony is prohibited.
Any employee convicted of any such misdemeanor or felony
must notify his or her supervisor of the conviction no later
than five days after such conviction." (emphasis added)

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

There was sufficient competent evidence adduced to
support Carrier's conclusion as to Claimant's culpability.
The record reflects that the Claimant was not present for
work on October 4 and on the 5. Thereafter, he came back to

work and advised that he had been arrested for "open container." The Special Agent later advised the Carrier that Claimant had not been arrested for open container but rather for possession of marijuana. The SA furnished the Carrier with the Complaint in Case CR-90-246 (possession of marijuana) from the State of Nebraska and the Journal Entry of Arraignment (Exhibits B-1 and B-2) on the Claimant in which the Claimant pled guilty to the charge. He was required to pay a fine of \$200 plus the cost of action.

Award: Claim denied.

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

R. O. Rock
R. O. Rock, Carrier Member

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

Issued April 24, 1992.