

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 532

Docket No. 532

File 910230

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 B. R. Edmondson was dismissed on November 28, 1990.

(2) Claim in behalf of Mr. Edmondson 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 B. R. Edmondson, was required to attend a formal investigation held on November 13, 1990, on the charge:

"...that you were allegedly insubordinate when you failed to comply with instructions from Rail Gang Supervisor R. C. Callaway and his letters of April 26 and July 11, 1989 to remain drug free indefinitely as evidenced by the positive test result of the follow up drug test given you on October 12, 1990 at Nebraska City, Nebraska..."

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

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

There was sufficient competent, probative information adduced to support Carrier's conclusion as to Claimant's culpability. The record reflects Carrier's well articulated policy of changed medical-examination policy set out in its Routine Physical Examination Policy of April 10, 1989. Said policy outlined the requirements expected of medically disqualified employees due to drugs being found in the employee's system during a routine physical examination.

Claimant, on April 26, 1989, was advised that during a routine medical physical he had tested positive for drugs. The Claimant received a letter which medically disqualified

him. He was instructed to enter either the EAP program or submit a negative test result within ninety (90) days. Claimant chose to do neither. On January 16, 1990, the Executive Vice President of Operations issued a drug and alcohol policy similar to that issued April 10, 1989.


When the Claimant tested positive a second time an investigation was held. The Claimant was found to be in violation of Rule 607 inasmuch as he had failed to comply with written instructions outlined in the various policies. Claimant made no affirmative effort to do anything until after he was dismissed.

The Claimant as in all other similar cases brought to this Board, was furnished a copy of the test findings. There was no credible evidence offered to demonstrate the Employee's position that could alter our decision. As pointed out by Third Division Award 28551:


"There can be no doubt about the serious concern over the use of drugs by employees or about the obligation of the Carrier to provide a safe work place for all of its employees or about the right of the Carrier, and the concomitant responsibility of the organization, to attempt to remove such violators from the service."

The discipline imposed was consistent and uniform with that applied in all other cases brought to the attention of this Board. This claim will be denied.

Award: Claim denied.


S. A. Hammons, Jr., Employee Member


R. O. Rock, Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member

Issued May 27, 1992.