

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 533

Docket No. 533
File 910238

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 Trackman A. W. Newton was dismissed on December 27,
1990.

(2) Claim on behalf of Mr. Newton 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 Trackman A. W. Newton, attended a formal
investigation held on December 3, 1990 on the charge:

"...allegedly insubordinate when you failed to comply with
instructions from Track Supervisor L. D. Briggs in his
letters of May 10 and August 9, 1989 to remain drug free
indefinitely as evidenced by deposit of test result of the
follow-up drug test given you on October 11, 1990 at or near
Mesquite, Texas."

He was found culpable and dismissed from service as
discipline therefor.

This case is identical to that of our Award 452 the
findings of which by reference are incorporated herein and
made part hereof.

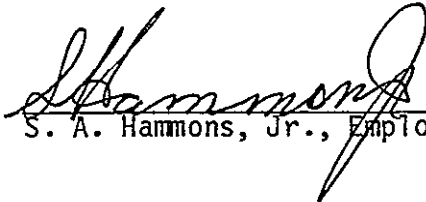
The Claimant was initially found to be in violation of
the Carrier's physical routine examination policy of April
10, 1989. The Claimant was advised under date of May 10,
1989 that during a routine medical physical he had tested
positive for drugs. The Claimant was advised August 9, 1989
to remain drug free. He was given a follow up drug test on
October 11, 1990. He tested positive again.


Therefore, when Claimant Newton tested positive a
second time, an investigation for insubordination was held.
Carrier properly concluded that the Claimant had failed to
comply with the written instructions outlined in his various
policies.


Claimant was accorded the due process to which entitled. There was sufficient, competent evidence adduced which supported Carrier's conclusion of his culpability.

The Claimant's dismissal was consistent with the handling of similar cases. 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.