

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 537

Docket No. 537

File 910242

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

Statement

of Claim: (1) Carrier violated the Agreement, especially Rule 12, when Machine Operator L. L. Thibodeaux was dismissed on January 18, 1991.

(2) Claim on behalf of Mr. Thibodeaux 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.

The Claimant, Machine Operator L. L. Thibodeaux, was given notice of formal investigation, dated December 19, 1990, on the charge that he had falsified medical history Form No. 16901, dated October 9, 1987. The hearing was held on January 9, 1991. Carrier concluded therefrom that the Claimant was culpable and dismissed him from service as discipline therefor.

The record reflects that Claimant completed a report of personal illness on October 5, 1987 because of a back injury sustained while lifting buggies on Form 52032. On October 9, 1987 the Claimant completed medical history Form 16901. The latter form was required bi-annually for D.O.T. qualification. Thereon in questions 51, 54, 59, 60 and 64 his negative checkmarked answers were contrary to those previously reported on Form 52032. Consequently, under date of December 19, 1990, the Claimant was notified to attend a formal investigation on the charge:


"That you falsified medical history Form 16901 dated October 9."

The investigation was postponed and held on January 9, 1991. Carrier concluded therefrom that Claimant was culpable. He was dismissed from service as discipline therefor.


The circumstances in this case are such that justice would be best served by immediately restoring the Claimant to service with all rights unimpaired but without pay for time held out of service subject, of course, to his passing the necessary return to service examinations. The Carrier implemented the bench decision.

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 May 27, 1992.