

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 545

Docket No. 545

File 910286

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

Statement of Claim:

1. Carrier violated the agreement, especially Rule 12, when Trackman V. E. Colbert was dismissed on January 7, 1991.

(2) Claim on behalf of Mr. Colbert 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 V. E. Colbert, was required to attend a formal investigation, held on January 4, 1991, on the charge made pursuant to Section 2 of the October 30, 1978 Article XI of the National Agreement that:

"In a review of your Application for Employment (Form 15000) signed by you in December 18, 1989, you alleged you left the service of the railroad of the Missouri Pacific Railroad in January 1981 as a result of being 'laid off.' However, a review of your previous record with the Carrier shows this statement to be inaccurate."

Carrier concluded therefrom that Claimant was culpable. He was dismissed from service therefor.

The Board finds that the Claimant was accorded the due process to which entitled under Rule 12.

There was sufficient evidence adduced to support the Carrier's conclusion of culpability. The record reflects that Claimant had been dismissed from service for being absent without authority on January 18, 19, 20 and 21, 1982. The separation from service was not, as alleged by Claimant, for being laid off. Consequently, the Claimant deliberately misled the Carrier on his Employment Application.

As this Board has pointed out, particularly in Award No. 120 and in Award No. 277 concerning falsifications of employment applications, and as Referee Dudley Whiting in our Award 120 said:

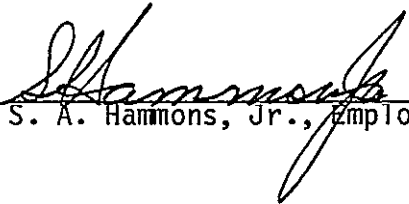
"Claimant falsified his application for employment by misstating his employment history in denying that he had ever been convicted of a violation of law other than a minor traffic offense. When the Carrier learned the true facts, Claimant was given notice of investigation thereon and thereafter dismissed from service."

The present Chairman of SBA 279 in Award No. 277 said:

"The Board finds the dismissal to be consistent with Article XI, - Application for Employment of the National Agreement of October 30, 1978... The nature of the information withheld from the Carrier was such that if Claimant had furnished same it would have in all probability, not employed Claimant. Dismissal is an appropriate penalty for falsification of employment application..."

In the particular circumstances, this claim will also 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.