

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 551

File 910487

Docket No. 551

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

Statement

of Claim: (1) Carrier violated the Agreement, especially Rule 12,  
when F. E. Cox was dismissed from service on April 13, 1991.

(2) Claim in behalf of Mr. Cox for wage loss suffered  
beginning April 13, 1991, until reinstated with seniority,  
vacation and all other rights unimpaired.

Findings: The Board has jurisdiction by reason of the parties  
Agreement establishing this Board for that purpose.

Claimant was notified under date of March 9, 1991 to  
attend a formal investigation on the charge:

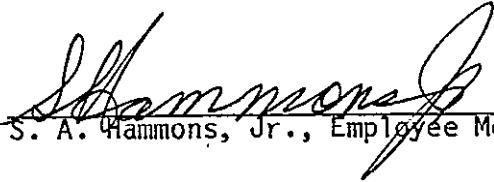
"You were allegedly insubordinate when you failed to comply  
with instructions given you from Track Supervisor R. D.  
Purtle in his letters of October 24, 1989 and November 15,  
1989 to remain drug free indefinitely as evidenced by the  
positive drug test results of the follow-up drug test given  
you on February 15, 1991 at College Station, Texas...."

Although properly advised of the investigation, the  
Claimant refused to accept any mail from the US Postal  
Service except his paycheck. Hence, he failed to appear at  
the investigation and it was therefore held in absentia. As  
a result thereof, Carrier concluded him to be culpable. The  
Claimant was discharged from service as discipline therefor.


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

There was sufficient evidence adduced, despite the  
absence of Claimant, to support Carrier's conclusion as to  
the Claimant's culpability. The Claimant failed to remain  
clean. It is as simple as that. The Claimant was offered  
and failed to accept such offer to enter the EAP program as  
late as March 9, 1991 because he refused to receive the  
mail. The discipline of dismissal is consistent with the  
facts in this case as well as the application administered  
in numerous other similar cases. This claim will be denied.

Award: Claim denied.

  
S. A. Hammons, Jr., Employee Member

  
Kathy A. Alexander, Carrier Member

  
Arthur T. Van Wart, Chairman  
and Neutral Member

Issued November 28, 1992.