

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 555

File 910545

Docket No. 555

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 C. D. Baxter was assessed 90 days actual suspension and disqualified as a foreman.

(2) Claim in behalf of Mr. Baxter for wage loss suffered beginning March 25, 1991 through June 23, 1991 and the difference in rate of pay between track foreman and the job worked beginning June 24, 1991.

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

The Claimant, Tie Gang Foreman, C. D. Baxter, on May 3, 1991, was advised as follows:

"Enclosed is the transcript of the formal disciplinary investigation held April 9, 1991--., while working as Tie Gang Foreman on Gang 9165 in the vicinity of Navsota, Texas--...you allegedly failed to adequately perform the duties of a Tie Gang Foreman when you failed to provide proper supervision, failed to complete project as instructed and released the gang early on February 28, 1991 and March 1, 1991. Also, that you allegedly falsified a personal injury report on March 5, 1991 which you alleged occurred on March 4, 1991. Additionally, for your alleged failure to comply with instructions when instructed by myself (G. A. Noll, Track Supervisor) to receive medical attention on March 5, 1991.

The investigation will also be for allegedly falsification of production reports on February 28, 1991 and March 1, 1991, and also for your alleged absenteeism on March 6 and 7, 1991, all indicating a possible violation of the Safety, Radio and General Rules for all Employees in the Maintenance of Way Rules.

I have now personally reviewed and have considered all the testimony contained in the hearing transcript. I have found

more than a sufficient degree of evidence was presented to warrant sustaining all charges brought against you.

In consideration of the severity of the offense, I am now ordering that you be disqualified as a Track Foreman, and that your record be assessed a ninety day actual suspension beginning Monday, March 25, 1991..."

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

There was sufficient evidence adduced to support the conclusions of Carrier as to the charges placed against the Claimant.

The discipline imposed in view of the charges, the record developed and the Claimant's personal record, is not deemed to be unreasonable. 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