

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 558

Docket No. 558
File 910566

Parties Brotherhood of Maintenance of Way Employees
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. J. Davidson was suspended from service from April 5
- 30, 1991.

(2) Claim in behalf of Mr. Davidson for wage loss suffered
beginning April 5 through April 30, 1991.

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

Trackman Charles J. Davidson, 10 year service, was
given a formal investigation, on April 30, 1991, on the
charge:

"Alleged failure to comply with instructions of Assistant
Foreman Omar Moncivais, on the morning of April 4, 1991, at
approx. 8:20 AM (when instructed 'to go up front to help
knock on anchors)."

The Carrier concluded therefrom that the Claimant was
culpable. He was assessed a 26 day actual suspension as
discipline therefor.

The Claimant was accorded the due process to which
entitled under Rule 12. The notice of investigation could
have been more clear if the instructions given were cited.
However, the absence is not fatal in this case.


There was sufficient evidence adduced to support
Carrier's conclusion as to the culpability of the Claimant.
The Assistant Foreman, Mr. Moncivais, starting at T-9,
testified that he had instructed the Claimant three times to
go up front to knock anchors. The transcript reflected that
such work instructions were given. Commencing at T-18 the
corroboration thereof was made and given by Trackman Jerry
Johnston. Despite such corroboration, the fact remains that
the testimony of one witness may be sufficient to establish
a preponderance of the evidence. See Third Division Awards

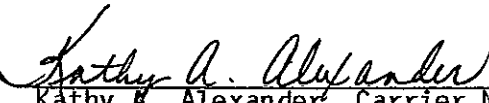
21054, 25102, 24991, 25873 and 25316. Any conflicts in the testimony was resolved by the Carrier.

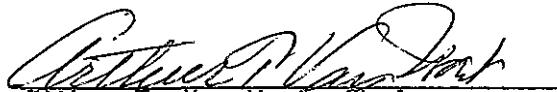
To avoid the discipline being deemed harsh it will be reduced to a fifteen (15) day actual suspension.

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


Kathy A. Alexander, Carrier Member


Arthur I. Van Wart, Chairman
and Neutral Member

Issued December 19, 1992.