

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 561

Docket No. 561
File 910570

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

Statement

of Claim: (1) Carrier violated the Agreement, especially Rule 12,
when P. Lanier was dismissed from service on May 28, 1991.

(2) Claim in behalf of Mr. Lanier for wage loss suffered
beginning May 28, 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.

The Claimant, Track Foreman P. Lanier, following a
formal investigation, held on May 31, 1991, was concluded to
have been culpable of the charge placed thereat of a failure
to properly report lodging expenses for the period March 16,
1991 through May 15, 1991 and was dismissed from service as
discipline therefor.

The Claimant was accorded the due process to which
entitled under his discipline rule.

There was sufficient credible, competent, evidence
including the self admissions of the Claimant, adduced to
support Carrier's conclusion as to the Claimant's
culpability. The Claimant's candid and honest answers not
only simplified the holding of the investigation but
unfortunately changed the complexion of the case from being
one of innocent until proven guilty to being guilty by
reason of his plea.

Carrier's policy states:


"Lodging reimbursement for bulletined 'on-line' or in bunk
cars employees working on their seniority district and not
provided with bunk car facilities is currently limited to a
maximum of \$13.75 per day if a 'bona fide lodging receipt(s)
with the name and address of the establishment imprinted or
stamped on the receipt' is attached to the claim form."
(emphasis added)

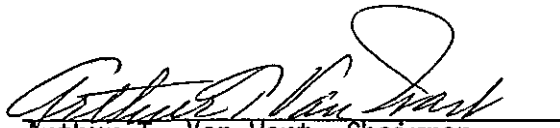
The record reflects that the Claimant did not stay at a lodging facility but rather at a friend's home. He claimed the above permitted expense without providing the valid "bona fide" lodging "receipt therefor." The Claimant admitted thereto and entered a plea of guilty. He, in effect, threw himself on the mercy of the Carrier.

Carrier's response of a dismissal as discipline therefor was undoubtedly influenced by the fact that proven dishonesty and the incidents generally warrant a discipline of discharge. It also was faced with the fact that this was the second incident of dishonesty in which the Claimant had been involved in, pled guilty to, was discharged therefor and later reinstated. The Claimant in effect has gone to the wall two times for being dishonest. He was discharged twice. Those facts leave the Board with no right to do anything for him. He stands where is as the results of his own actions. We cannot furnish that which the Claimant refuses to furnish to himself, i.e., honesty. The Board has no authority to grant leniency. Only the Carrier may do that. The claim, unfortunately, must be denied.

Award: Claim denied.


S. A. Hammons, Jr., Employee Member


Kathy A. Alexander, Carrier Member


Arthur I. Van Wart, Chairman
and Neutral Member