

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 566

Docket No. 566
File 910668

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 R. Norment was dismissed from service on August 13,
1991.

(2) Claim in behalf of Mr. Norment for wage loss suffered
beginning August 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.

The result of the Claimant making derogatory remarks to
Welder Walter Harris about his wife led to an altercation
during which Claimant incurred a personal injury.

A formal investigation was held on August 7, 1991 on
the charge:

"..quarrelsome and careless of the safety of yourself and
others when you were involved in an altercation in the
vicinity of Mabelvale while employed as Welder and Track
Foreman respectively on the N. Little Rock Service Unit on
July 23, 1991..."

As a result thereof, both men were dismissed from
service as discipline therefor.


Welder Harris was subsequently reinstated on a leniency
basis without pay for time lost, on or about October 22,
1991.

The Board can find no cause in this record to not treat
the Claimant in a similar manner. Therefore, his discipline
of dismissal will be reduced to actual suspension. The
Claimant shall retain his Foreman's rights and all other
rights are unimpaired but there will be no pay for the time
out of service. The Claimant, apparently, is asserting that
he was too hurt to work. Hence, the conditional terms will
be applicable when the Claimant is able to return to work

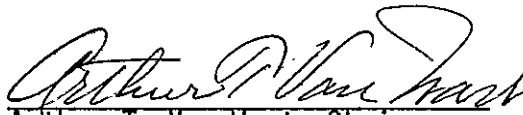
and had passed the necessary physical return to work examination.

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 T. Van Wart, Chairman
and Neutral Member

Issued December 19, 1992.