

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 576

Case No. 576

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

Statement

of Claim: (1) Carrier violated the Agreement, especially Rule 12, when L. E. Allen was assessed 30 days deferred suspension.

(2) Claim in behalf of Mr. Allen for removal of said discipline from his record.

Findings: The Board has jurisdiction of this dispute by reason of the Parties Agreement establishing this Board therefor.

The Claimant Track Foreman was notified to attend a formal investigation on the charge:

"Your alleged failure to properly report personal injury sustained by Clarence Joseph at approximately 8:15 a.m. October 9, 1991 at the LaBlanc Spurr, Donaldsonville, LA. while you were working as members of gang 2910 on the Alexandria Subdivision."

Carrier concluded therefrom that the Claimant was guilty of the charge. He was given the thirty day deferred suspension here appealed.

The Board finds that 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 Claimant's guilt for his failure to promptly report the injury sustained by Clarence Joseph who was working as a Trackman under his charge.

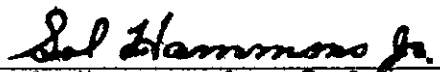
Carrier chose to believe the testimony of witness Joseph who testified that he had mentioned the injury to his Foreman, Valentine, who corroborated the assertion and also the fact Valentine, Joseph and Allen were driving in the truck when the statements were made that he hurt his back while loading the rail stretcher.


The discipline will be modified in light of the manner in which Joseph made his assertion "that his back was worrying him." Although the statement nevertheless should have alerted the Foreman that something was not just right.

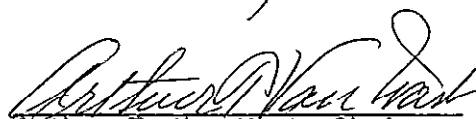
The manner of expressing the injury was poor. The discipline will be reduced to a fifteen (15) days deferred suspension.

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 Alexander, Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member

Issued May 22, 1993.