

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 578

Case No. 578.

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

Statement

of Claim: (1) Carrier violated the Agreement, especially Rule 12,  
when D. Joubert was assessed 30 days actual  
suspension.

(2) Claim in behalf of Mr. Joubert for wage loss suffered  
beginning October 21, 1991 and 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 D. Joubert, was notified to  
attend a formal investigation on September 26, 1991 on the  
charge:

"You allegedly gave permission to the SDA 10 to occupy the  
main track without having the proper protection which in  
turn caused a near collision between the HOBV train and the  
SDA 10."


Carrier concluded from the transcript thereof that the  
Claimant was culpable of the charges placed against him. A  
30 day actual suspension was imposed as discipline therefor.

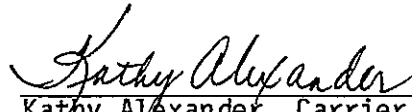
Claimant was accorded the due process to which entitled  
under Rule 12.

There was sufficient evidence adduced to support  
Carrier's conclusion as to the Claimant's culpability. The  
record shows that Machine Operator A. Marquez (AD-10)  
responded to the Claimant's radio call; that the Claimant  
advised Marquez that he (Joubert) had a track warrant and  
that he (Marquez) could come out of the hole and occupy the  
main line. Marquez assuming that he was protected  
thereunder came out with the other two spikers who went to  
work in the Claimant's territory. Later the Train HOBV came  
up the main and discovered Spiker AD-10 occupying it and  
stopped well in the clear. The Claimant's disclaimers as to  
alleged communications misunderstanding did nothing to  
prevent the potential collision between Spiker AD-10 and  
Train HOBV.

The discipline is deemed reasonable.

Award: Claim denied.

  
S. A. Hammons, Jr., Employee Member

  
Kathy Alexander, Carrier Member

  
Arthur T. Van Wart, Chairman  
and Neutral Member

Issued May 22, 1993.