

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 588

Docket No. 588  
U. P. File No. 920273

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

Statement

of Claim: (1) Carrier violated the Agreement, especially Rule 12, when R. S. Bavousett (SSN 457-98-3999) was assessed 180 days actual suspension from service on February 11, 1992.

(2) Claim in behalf of Mr. Bavousett for wage loss suffered beginning February 11, 1992, and removal of said discipline from his record.

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

Maintenance of Way Foreman R. S. Bavousett was formally charged. He attend the formal investigation held on January 28, 1992 on the charge that he had turned in time for 8 hours straight time pay for July 1 and November 4, 1991 when he was actually absent both days.

Carrier concluded therefrom that Claimant was culpable of the charges placed against him and imposed a 180 actual suspension as discipline therefor.

The Claimant was accorded the due process to which entitled by Rule 12. The discovery was not made until December 30, 1991 by MTM J. M. Guerra. The Claimant was cited for investigation three days thereafter the Carrier had knowledge.

There was sufficient evidence adduced to support Carrier's conclusion of culpability. The record discloses that the Claimant's cause for absence was not the result of the usual run-of-the-mill rationale. It was asserted and not denied that the Claimant did not report to work on July 1 because Claimant was incensed because his paycheck was late. Claimant was not at work November 4th because he had to see an attorney over a custody matter.


The state of the record does not appear that the Claimant was willfully being absent. There is cause for modification. The discipline of 180 days suspension imposed

is modified to 90 days. Claimant, of course, is on notice that in the incident involved it is a question of personal honesty and he is being disciplined therefor.

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 November 27, 1993.