

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 594

Docket No. 594
U. P. File No. 920442

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

Statement

of Claim: (1) Carrier violated the Agreement, especially Rule 12, when J. L. Conley (SSN 499-66-2493) was dismissed from service on May 1, 1992 for being absent without authority.

(2) Claim in behalf of Mr. Conley for wage loss suffered beginning May 1, 1992, until reinstated with seniority, vacation and all other rights unimpaired.

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

Machine Operator Helper J. L. Conley, following a formal investigation, was dismissed from service as discipline for being absent without authority on the dates of February 18, 19, 20 and 21, 1992.

Claimant was assigned to Gang 9162 on January 20, 1992. He was working in Arkansas. Another Gang member, Bobby Baker, reported to Track Supervisor David Ware on Monday, February 18, 1992 that the Claimant, Mr. Conley, would not be at work for a while as he had been arrested and jailed in Missouri. Both the Claimant and Mr. Baker reside in Missouri and share a ride to where the gang was working. The Claimant was absent from work on February 18, 19, 20 and 21 for which he had not received authority for his absence.

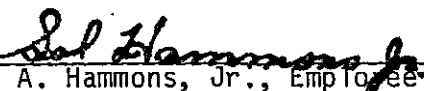
A formal notice was sent to the Claimant on the date of February 24 as to a investigation to be held on the charge that on February 18, 19, 20, and 21, 1992 he was allegedly absent without proper authority from his assigned position of Machine Operator Helper on Gang 9162.

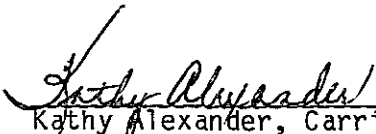
The Claimant was accorded the due process to which entitled under his labor agreement, Rule 12.


There was sufficient evidence adduced, including the admission of Claimant, as to his incarceration, to support Carrier's conclusion of culpability. The Claimant was

arrested and jailed in the State of Missouri for his failure to pay a speed charge ticket. A warrant for arrest was issued for the Claimant to attend and make payment or show cause why not. Numerous Awards have been issued by the various Divisions that incarceration is not regarded as a justifiable reason for an employee not to protect his assignment. Additionally, this is a companion case to two others. Our Awards No. 593 and 595, both of which resulted in dismissal, were issued on May 1, 1992. The Claimant has been counseled and was given a 30 day deferred suspension in 1988 for being absent without authority. In the circumstances, the Board finds no reason to interfere with the Carrier's discipline imposed in this case.

Award: Claim denied.


S. A. Hammons, Jr., Employee Member


Kathy Alexander, Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member

Issued November 27, 1993.