

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 597

Docket No. 597
U.P. File No. 920490

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 P. R. Munger (SSN 462-13-7778) was assessed 30 days
actual suspension on August 31, 1992.

(2) Claim in behalf of Mr. Munger for wage loss suffered
while serving the actual suspension and removal of said
discipline from his record.

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

The Claimant, a Welder, was notified under date of July
29, 1992 to attend a formal investigation:

"...your alleged failure to comply with instructions from
M.T.M. T. J. Menchaca, starting June 3, 1992, through
present date and in violation of Rule 2, of the Maintenance
of Way Rules while you were working as a welder at Lloyd
Yard, Spring, Texas."

As a result thereof, Carrier concluded the Claimant to
be culpable and assessed a discipline of 30 days actual
suspension as discipline therefor.

Rule 2 - Standard Time, reads:

"Time of service requirements: while on duty, employees who
are examined on these rules, must have and use a reliable
watch capable of indicating time and hours, minutes and
seconds, continuously on the same display. Hours must be
indicated in their Arabic numerals.

Continental time is authorized system wide."

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

There was sufficient evidence adduced at the
investigation to support Carrier's conclusion of the

Claimant's culpability. The record reflects that MTM Menchaca talked with the Claimant on June 3, 1992 for not having a proper watch. The Claimant indicated that he would purchase one by the end of the week. The MTM again talked with the Claimant on June 22 and July 15 as to not having a proper watch. The MTM even offered to loan the Claimant the money to buy a watch. On July 28th MTO Burns performed a safety audit on Claimant and Mr. Peel. Burns discovered that the Claimant still did not have a proper watch.

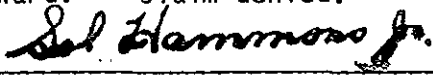
Claimant admitted during the investigation that he had not complied with the instructions. Such admission, of course, in reality ends the need for further discourse on the subject matter. As pointed out in Second Division Award No. 8576 (Roukis):

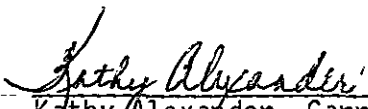
"There were no mitigating circumstances such as safety considerations that would warrant non compliance and his willful failure to conform to this expected employment requirement was at peril. It ill serves the railroad industry which is vested with a vital public interresponsibility if employees are permitted the right of self help. A discipline and responsive chain of command is a necessary pre-condition of safe and efficient rail operations. It would be an anarchic state of affairs otherwise.

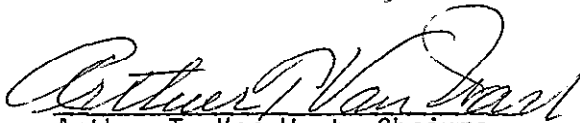
In Second Division Award 5360, this Board held in pertinent part: the undisputed evidence shows that Claimant opening refused to commence a task when instructed to do so by his immediate supervisor and used abusive and vulgar language when confronted with this failure by his superior. Insubordination is a serious offense which has been held to justify dismissals under circumstances more favorable to the employee than those of this case."

The discipline imposed is deemed reasonable for the Claimant's continued failure to have an approved time piece and the need therefor requires no further discourse. This claim will be denied.

Award: Claim denied.


S. A. Hammons, Jr., Employee Member


Kathy Alexander, Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member