

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 606

Docket No. 606

U.P. File No. 920623

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 G. L. Bundy (SSN 429-98-7952) was assessed 30 days deferred suspension and S. D. Ackman (SSN 496-64-7168) was assessed 15 days deferred suspension.

(2) Claim in behalf of Messrs. Bundy and Ackman for removal of said discipline from their records.

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

The Claimants Track Foreman G. L. Bundy and Machine Operator S. D. Ackman were notified to attend a formal investigation:

"...for failure to ensure the south main track of the Sedalia Subdivision at MP 2.3, was left in the safe condition for the movement of trains at the prescribed speed as required by the Federal Railroad Administration, Office of Track Safety Standards, effective November 1, 1982."

Carrier concluded culpability. A thirty day deferred suspension and a 15 days deferred suspension were given the Claimants as discipline therefor.

The Claimants' gang, on August 13, 1992, was working the St. Louis Terminal area. Their gang was tamping and surfacing both main lines. That evening after the tamping gang finished their work, Track Foreman J. L. Johnson, patrolled the track and found the south main track to be three inches out of cross level, at approximately MP 2.3. He immediately contacted the Dispatcher and put out a slow order on the track. The track, normally a 30 mile track, was deemed unsafe according to FRA standards. Hence, trains would only be safe at 10 MPH.


Track Inspector Horton, who had been off the day before, also inspected the location in question. Norton also found the track to be out 3 inches at a cross level.

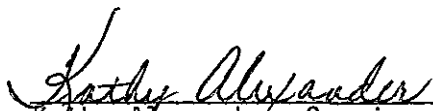
Claimant's gang was the only gang who had worked this portion of the track.


The issue here is credibility. Two Track Supervisors on two different days inspected the location in question and found it to be 3 inches out of cross level. The Claimants acknowledged that while they worked on that portion of the track, they contend the track was in proper cross level when they finished work for the day. The Carrier resolved the question of credibility by placing more belief on Johnson's or Norton's testimony. There was no indication of inference that they were biased.

The discipline of deferred suspensions is deemed reasonable. 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

Issued November 27, 1993.