

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 607

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

Statement

of Claim: (1) Carrier violated the Agreement, especially Rule 12, when V. Cantu, Jr., (SSN 459-94-1436) was assessed 60 days actual suspension.

(2) Claim in behalf of Mr. Cantu for wage loss suffered beginning July 3 to August 31, 1992 until reinstated with seniority, vacation and all other rights unimpaired.

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

 The Claimant, Trackman V. Cantu, Jr., asserts that on or about June 6, 1992, while he and Trackman L. D. Ballard were in the process of breaking a joint apart his hand was injured. Mr. Cantu claims that while holding a "drift pin" (chisel) Mr. Ballard used an eight pound munday maul to strike the "drift pin" several times and hit Cantu's hand injuring it. Two days later, Claimant Cantu filed an accident report (Form 52032).

 Carrier conducted a formal investigation on July 3, 1992 on the charge that Claimant falsified the cause of an alleged injury.

 Carrier concluded from the transcript that the Claimant was guilty as charged and assessed him 60 days suspension as discipline therefor.

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

 There was sufficient evidence adduced to support the Carrier's conclusion of guilt. This case turned on credibility. Carrier, as the trier of facts, properly resolved the clash of conflicting statements, in essence, that Ballard did not strike Cantu's hand. The medical evidence, Investigation Exhibit B, reflects that Dr. Parks' read the x-ray and concluded that it was not a fracture as alleged.

 The discipline imposed is not unreasonable. This claim is denied.

Award: Claim denied.

Sal Hammons Jr.
S. A. Hammons, Jr. Employee Member

Kathy Alexander
Kathy Alexander, Carrier Member

Arthur T. Van Wart
Arthur T. Van Wart, Chairman
and Neutral Member

Issued November 27, 1993.