

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 610

Docket No. 610
File 920489

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

Statement

of Claim: (1) Carrier violated the Agreement, especially Rule 12,
when E. O. Holiday (SSN 462-92-4867) was dismissed from
service on June 10, 1992.

(2) Claim in behalf of Mr. Holiday for wage loss suffered
beginning May 7, 1992, and continuing until Claimant is
reinstated with seniority, vacation and all other rights
unimpaired.

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

Claimant Trackman, as a result of a formal
investigation, held on June 2, 1992, on the charge:

"... you allegedly were intoxicated while on duty and on
Company property therefor, creating an unsafe condition for
yourself and others."

was concluded culpable and dismissed from service as
discipline therefor.

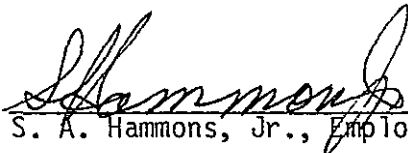
The Claimant was accorded the due process to which
entitled under his discipline rule. That he chose not to
attend the investigation, which caused it to be held in
absentia, does not thereby vitiate the investigation.

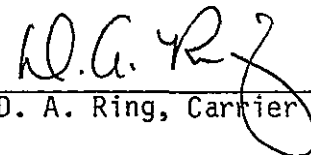
The Claimant is bound by the results of the evidence
adduced thereat. Our Award No. 519 points these facts out.
The Claimant there, as here, was properly notified. He,
too, chose not to attend but he was bound by the results
adduced thereat.

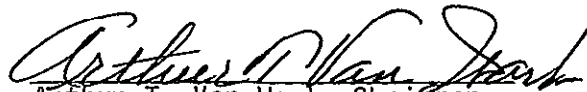
There was sufficient evidence adduced to support the
Carrier's conclusion of culpability. Witnesses Foreman
Bazille and Timekeeper D. R. Juneau testified as to his
odor, physical reactions and that he picked an altercation
with Juneau. The Claimant was also instructed, several
times, to do his exercises and be quiet.

The discipline is reasonable. Dismissal has been applied to Rule G violations. Here, the Claimant, who only had two and one-half months of service, was offered an opportunity on February 1, 1993, to enter and participate in the Rule G "Rehabilitation/Education Program" and he refused it. The Board can do no more for him than he chose to do for himself. This claim is denied.

Award: Claim denied.


S. A. Hammons, Jr., Employee Member


D. A. Ring, Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member

Issued January 31, 1994