

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 612

Docket No. 612
File 920634

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 T. L. Schuchert (SSN 455-25-0078) was assessed a forty-five (45) days actual suspension from September 1, 1992 to and including October 15, 1992.

(2) Claim in behalf of Mr. Schuchert for wage loss suffered beginning September 1, 1992 through October 15, 1992.

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

The Claimant Bridge Foreman, was notified to attend a formal investigation on the charge:

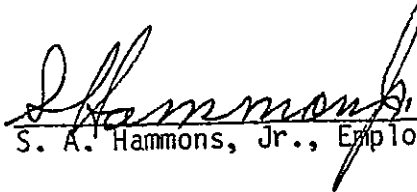
"...you allegedly failed to take every precaution to prevent injury to yourself or others which resulted in personal injury to L. D. Drees, B&B Carpenter..."

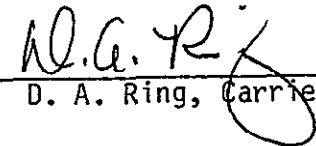
Carrier concluded from the investigation that Claimant was culpable. He was given a 45 day suspension as discipline therefor.

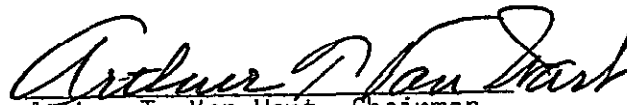
Claimant was accorded the due process to which entitled under his discipline rule.

There was sufficient evidence to support the Carrier's conclusion as to the Claimant's culpability. Whether advertent or inadvertent the opening of a knife, particularly in cramped quarters, and using it to attempt to open a water bottle held between the legs of another person without that person even being involved or absent a request for assistance to do that, presents a strong opportunity for someone, to receive an injury. An injury did occur here. The Claimant's action was totally uncalled for. It was unnecessary, unsafe and was an improper action on the part of the Claimant. This claim will be 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.