SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 629

Docket No. 629
File 930624

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 J. A. Alexander, SSN 188-38-6914, was assessed a letter
            of reprimand on July 19, 1993.

            (2) Claim in behalf of J. A. Alexander for removal of the
            letter of reprimand from his record.

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

                The Claimant Trackman on June 21, 1993 was working as a
            Trackman member of Gang 1019 in the vicinity of Gurdon,
            Arkansas.   Said Gang was working with the welding gang
            cutting out rail defects and replacing the defects with 15
            foot sections of new rail. This process required the use of
            a rail drill which was unloaded from the truck by the use of
            a "knuckle boom." The rail drill is moved by two employees
            from location to location as is needed.   The Claimant
            participated in the lifting of the rail drill and near the
            end of the day he complained to his foreman that he had
            severely strained himself in the groin.

                The Claimant was cited to a formal investigation on the
            charge:

            "To develop the facts and place your responsibility, if any,
            in connection with your alleged personal injury sustained on
            June 21, 1993 at approximately 1:15 PM while you were
            working as a Trackman on Gang 1019..."

                The Carrier concluded from the hearing that Claimant
            was culpable of a Level 1 violation. A Letter of Reprimand,
            was issued on July 19, 1993 as discipline therefor.

                The Claimant was accorded the due process to which
            entitled under Rule 12. There was sufficient evidence
            adduced   to support the conclusion of the   Claimant's
            culpability.   He was not guilty of a violation of General
            Rule E because he reported it by the first means of
            communications orally to his Foreman Steve Crump.   His

injury report reflected under the caption: "how accidents/incidents occur" that he said:

"I was carrying rail saw and pulling spikes and unloading rail from truck and using rail drill. I was carrying rail drill with Alfred Brown when pain occurred."

"(Q. 11) What specifically caused the accident/incident?

(A) I would guess from carrying and moving rail drill. Then later when pulling spikes pain shot through back and got."

Safety Rule 4008(b)(2) reads:

"Working together--where two or more employees are to lift, the following is required to prevent back and other possible injuries:

(a) Job briefing pertaining to each type of lift to be performed.

(b) One person designated to give commands for all movements (lifting, walking, lowering or throwing). When practical place him at one end of object being handled.

(c) Employees must be placed according to size, strength and experience.

(d) Avoid walking backwards and refrain from unnecessary conversation."

Claimant at T-18 pointed out how the lifting of the drill was done smoothly and properly but the cause of the lifting was due to unlevel footing. The level of the drill was not handled properly because Alfred Brown the other Trackman assisting him stands 6' 2" while the Claimant stands 5' 3". The Claimant said:
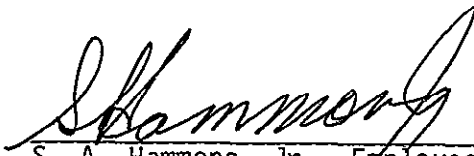
"Q. In your observation, the ground was unlevel to make the lift?

A. Yes but, also, due to the fact like I said, I was lifting this drill with Mr. Alfred Brown, I stand 5' 3" and Mr. Brown is 6' 2". I was on the lower bank of the track. The track is up higher. Mr. Brown was also on the upper part of the track, and I was on the lower level of the track. On the side of the ballast as we were carrying the drill to the other end."
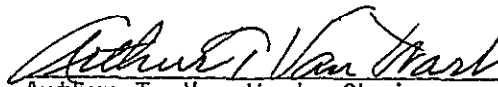
The Claimant admitted that he did not tell the foreman he did not want to lift the drill because he was not on level ground.

The discipline imposed was reasonable. It was consistent with what the parties had otherwise agreed to. 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   Brooksville, Florida June 27, 1994.