

SPECIAL BOARD OF ADJUSTMENT NO. 279

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
versus
MISSOURI PACIFIC RAILROAD COMPANY

STATEMENT
OF CLAIM:

Claim of the Committee that:

1. Carrier violated the effective Agreement by unfairly and without just cause removed from its service on July 16, 1976, Welder Tholen Clawson, and subsequent to a hearing, dismissed him from Carrier's service.
2. Carrier shall reimburse Claimant Clawson for eight (8) hours pay each work day and holiday, at the straight time rate, to commence August 2, 1976, and to continue until such time as he is returned to work with seniority rights and vacation privilege restored, unimpaired.

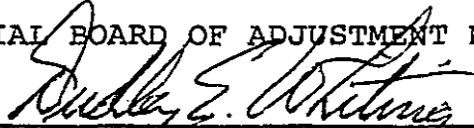
FINDINGS: Claimant physically assaulted a Roadmaster, which is generally accepted as misconduct justifying dismissal.

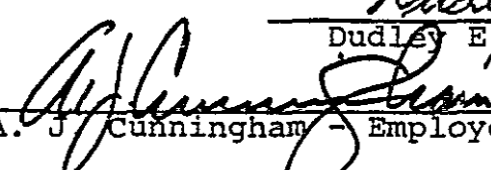
The fact that such assault occurred off Carrier's premises and while claimant was off duty does not alter the propriety of his dismissal under the circumstances of this case, as it was directly related to the employment relationship.

Claimant had been absent from work for two and a portion days. Employee absence is a legitimate matter of interest to and concern by the employer. The Roadmaster was acting within the scope of his responsibility in calling upon claimant to check the reason for absence and in calling attention to his responsibility to protect his assignment. Such action angered the claimant and he assaulted the Roadmaster. That action cannot be condoned and the claim cannot be sustained.

AWARD: Claim denied.

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Dudley E. Whiting - Chairman


A. J. Cunningham - Employee Member


V. E. Hanika - Carrier Member

St. Louis, Mo.
November 18, 1977
File: 247-5450