

SPECIAL BOARD OF ADJUSTMENT NO. 279

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
versus
MISSOURI PACIFIC RAILROAD COMPANY

STATEMENT
OF CLAIM:

(1) Carrier violated the agreement on March 18, 1981, when Welder A. Baublitz, Sr., was dismissed following investigation on March 24, 1981, in connection with the allegation he was in violation of Rule G at St. Joseph Yard on March 11, 1981.

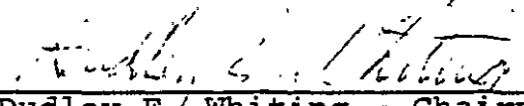
(2) Claimant shall now be returned to service with seniority and all other rights unimpaired and paid for all time lost beginning March 12, 1981.

FINDINGS: The evidence shows that claimant was suffering a hangover on March 11, 1981, which has been held to be a form of violation of Rule G, but dismissal is too severe a penalty for a first offense of this kind by an employee with 32 years of service. A warning of possible dismissal for repetition would have been appropriate, so the claim will be sustained.

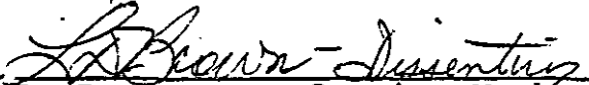
The remedy portion of the claim is inaptly written because the Agreement provides for payment of any wage loss, which comprehends the deduction of earnings in other employment and unemployment compensation received meanwhile.

AWARD: Claim sustained to the extent stated in the Findings.

SPECIAL BOARD OF ADJUSTMENT NO. 279


Dudley E. Whiting - Chairman


M. A. Christie - Employee Member


L. D. Brown - Carrier Member

New Orleans, Louisiana
October 21, 1983
File 247-6197

CARRIER MEMBER'S DISSENT TO AWARD 188

Award 188 holds that although claimant was found to have been under the influence of intoxicants in violation of Rule "G," a letter of reprimand would have been more appropriate than dismissal in view of claimant's 32 years of service. For the reasons stated herein, we must dissent.

The use of alcohol and drugs in the railroad industry has reached epidemic proportions. Because of this epidemic, people are being killed and maimed, and millions of dollars worth of property is being lost. This epidemic has reached such proportions that the Federal Railroad Administration and the National Transportation Safety Board are calling for federal regulations concerning this matter. This Carrier has not been immune from this epidemic. A classic example is the recent collision of two trains on our property which resulted in the death of two employees and property loss exceeding \$500,000. The direct cause of this collision was an engineer, with 12 years of seniority, who had been drinking prior to going to work, as well as after the trip was underway. Because of cases like this tragic incident, this Carrier has been making every effort to curb this problem.

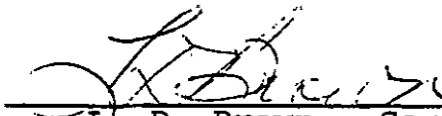
In an attempt to combat this problem, the BMWF and other labor organizations have worked diligently with us by such means as expanded voluntary rehabilitation and educational programs. Through all of this, however, there has been one constant principle; i.e., if an employee ignores these programs and is found in possession of or under the influence of intoxicants or drugs, he will be disciplined almost invariably by dismissal. Such a principle is essential to the viability of our programs and the safety of life, limb, and property. Award 188 would completely destroy that principle.

This Carrier cannot allow this award to set aside good management policies and destroy what we and the unions have worked so hard to establish. For that reason, we must reiterate our position relating to the use of intoxicants and drugs.

After a supervisor determines that an employee is under the influence of intoxicants or drugs, the employee immediately will be removed from service pending formal investigation, without regard to his length of service. If the logic of Award 188 were followed, an employee with a significant amount of seniority would be permitted to continue working

even though he was dead drunk and/or fast approaching that stage. Such a policy would only lead to the employe killing himself, his fellow workers, and possibly members of the public. Award 188 notwithstanding, we will continue to take out of service all employes who are found in violation of Rule "G." If, after proper procedures are followed, the evidence establishes that the employe violated Rule "G," disciplinary action, including dismissal, will be imposed. In addition, the employe will be encouraged to seek counseling and rehabilitation. After having completed such a program, consideration will be given to his reinstatement.

The risk of bodily injury or death to the employe, fellow workers, and the public is the same whether the intoxicated employe has 32 years or 2 months of service. For that reason, it would be unthinkable and bordering on criminal to treat Award 188 as precedent. No employe should think that Award 188 may be used as a license to violate Rule "G." We cannot have it so, notwithstanding the grave error made in Award 188.



L. D. Brown - Carrier Member
Special Board of Adjustment No. 279

St. Louis, Missouri
November 7, 1983
MP File: 274-6197