

Award No. 227

Docket No. 227

Mopac File 247-6808

Parties Brotherhood of Maintenance of Way Employees
to and

Dispute: Missouri Pacific Railroad Company

Statement
of Claim:

1. Carrier violated the effective Agreement when Trackman Phillip Martin and J. H. Valdez were coerced into signing a resignation and were deprived of their right to an investigation as provided in Rule 12 of current Agreement.

2. Claimants Martin and Valdez shall each be paid for eight hours each work day, including any holidays and any overtime which would have accrued to them, beginning April 20, 1984, continuing until reinstated to service with seniority, vacation and all rights restored to them.

Findings: The Board, after hearing upon the whole record and all evidence, finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, that this Board is duly constituted by Agreement dated January 5, 1959, that it has jurisdiction of the parties and the subject matter, and that the parties were given due notice of the hearing held.

The two Claimants on April 20, 1984, were assigned as Trackmen on System Rail Gang 6803, working near McGirk, Missouri. Neither Claimant appeared for roll call at the start of their shift.

The Rail Gang Supervisor and the Assistant Rail Gang Supervisor entered the gang's outfit about 10:30 a.m. They

found both Claimants in their bunk, Martin asleep and Valdez awake but resting. Rail Gang Supervisor Miller awakened Claimant Martin and found him to be under the influence of intoxicant. Claimant Valdez was interviewed. He too was also found to be under the influence.

Both Claimants at that time were advised of the seriousness of their misconduct. They were told that a formal investigation would be scheduled to investigate the incident, unless they, otherwise, desired to resign from the service in order to protect their work records. A formal letter of resignation was read to each of the Claimants. Each Claimant was asked if he understood its contents. Each answered in the affirmative. Both Claimants signed a letter of resignation. Thereafter, they gathered their personal belongings and departed the worksite.

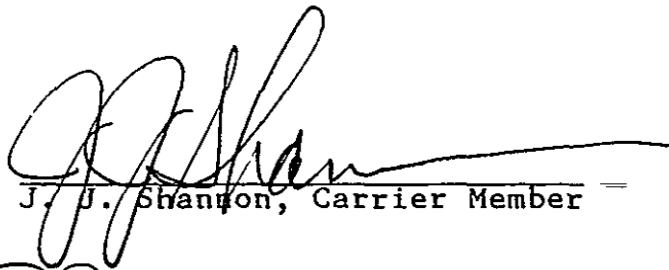
The Chief Engineer, on June 13, 1984, some 54 days later, received two letters dated June 11, 1984 from the former General Chairman concluding therein that Claimants had been coerced into resigning, and requested their reinstatement to service with pay for all time lost, commencing April 20, 1984.


Having signed a letter of resignation, Claimants weren't therefore entitled to a formal investigation under Rule 12, the discipline rule. Such resignation, of course, terminated any and all rights of an employee under the letter of agreement.

Here, the record is void of any proof from either Claimants or their representatives that the resignations were secured by coercion. Under the circumstances the Board concludes that the resignations were voluntarily signed. This act voluntarily terminated the Claimants' employment. Having failed to carry the burden of proof, these claims will be denied.

Award: Claims denied.


M. A. Christie, Employee Member


J. J. Shannon, Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member

Issued August 23, 1986.