

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 277

Case No. 277
File 247-7094

Parties Brotherhood of Maintenance of Way Employees

to and

Dispute Union Pacific Railroad Company
(Former MOPAC)

Statement

of Claim: (1) Carrier violated the current working Agreement, especially Rule 12, when Trackman Eddy Gee, Jr., was dismissed from the service effective October 14, 1985.

(2) Trackman Eddy Gee, Jr., should now be allowed eight hours pay for each work day including any holidays falling therein and any overtime which have accrued to him beginning September 16, 1985, continuing until he is reinstated to service with seniority, pass and vacation rights unimpaired.

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.

Claimant, who had been employed by Carrier for about a year as a Trackman on its New Orleans Division, was advised under date of September 16, 1985 to report for formal investigation to develop facts and place responsibility, if any, for his alleged falsification of Application of Employment. He was advised, under date of October 14th, that his record had been assessed with dismissal for his violation of Conditions of Employment, paragraph #4, in connection with falsifying his Application for Employment.

The Board finds that Claimant was accorded the due process to which entitled under his discipline rule.

The record supports Carrier's conclusion in response to the questions therein:

"What illness or injuries causing disability more than 15 consecutive days have you ever had, and when?

What injuries (other than minor cuts and bruises) have you ever had?

Have you ever filed a claim or sued for personal injury?"

He had answered all questions in the negative.

After Claimant had entered service the Carrier received some information indicating that he had incurred a job related injury while in the employ of the Coca Cola Corporation in Houston, Texas, that Claimant had suffered a back injury on April 14, 1976 and that a monetary injury settlement had been reached with the Coca Cola Corporation.

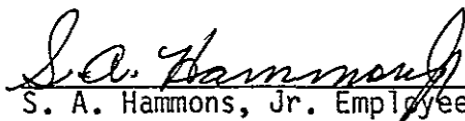
The Board finds the dismissal to be consistent with Article XI - Application for Employment of the National Agreement of October 30, 1978.

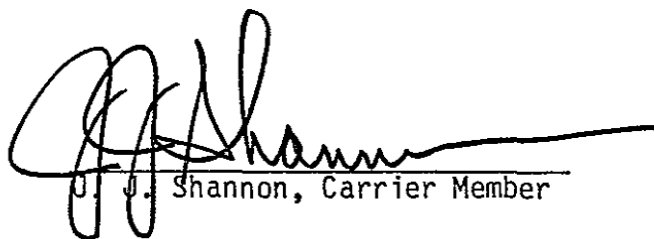
There was sufficient evidence adduced to support Carrier's conclusion as to Claimant's culpability.

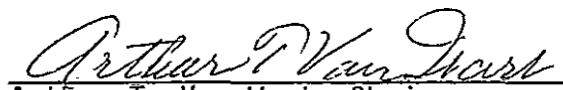
The nature of the information withheld from the Carrier was such that if Claimant had furnished same it would have, in all probability, not employed Claimant. Dismissal is an appropriate penalty for falsification of an employment application, particularly when involving one such as a Track Laborer, which is a physically demanding

occupation. The discipline assessed is deemed reasonable. This claim will be denied.

Award: Claim denied.


S. A. Hammons, Jr. Employee Member


J. J. Shannon, Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member

Issued O ctober 20, 1987.