

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 278

Case No. 278
File 247-7118

Parties Brotherhood of Maintenance of Way Employes
to and

Dispute Union Pacific Railroad Company
(Former MOPAC)

Statement

of Claim: (1) Carrier violated the current working agreement, especially Rule 12, when Track Welder A. R. Baublitz, II, was dismissed from the service effective December 19, 1985.

(2) Claimant Baublitz should now be allowed compensation for all time lost beginning November 20, 1985 and continuing until reinstated to service with seniority, pass and vacation rights unimpaired. Claim for eight (8) hours each work day, including any holidays falling therein and any overtime which would have accrued to him had he not been dismissed.

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, following a formal investigation held on December 13, 1985, was advised by the Superintendent under date of December 19, 1985:

"You are here advised that your record this date has been marked dismissed from service of the Missouri Pacific Railroad Company in connection with being quarrelsome, entering into an altercation which resulted in reported personal injuries while working as Welder in St. Joseph, Missouri, on November 19, 1985, in violation of General Rule A, Rule 607 (3), 607 (6) and 608 from the Safety, Radio and

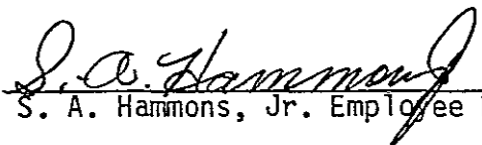
General Rules for all employees, as revealed in the transcript of the formal investigation held in St. Joseph, Missouri on Friday, December 13, 1985. Your record now stands dismissed from the service of the Missouri Pacific Railroad."

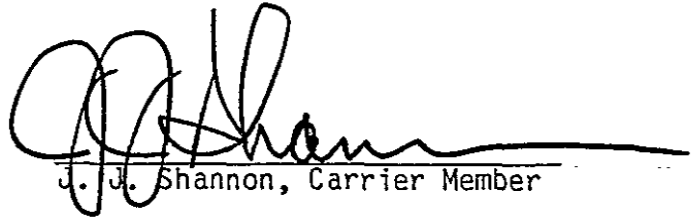
The Board finds that Claimant was accorded the due process to which entitled under the discipline rule. There was sufficient evidence adduced to support Carrier's conclusion as to Claimant's culpability.

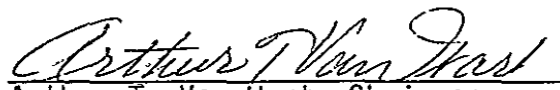
There were mitigating circumstances in this record, including Claimant's long service record. Claimant will be reinstated to service with all rights unimpaired but without pay for time out of service subject to passing the necessary return to service examination and he will be placed in a probationary status for a six month period. It is recommended that he apologize to Foreman Malotte. While Claimant is in the probationary status he is entitled to the protection of his discipline rule.

Award: Claim disposed of as per findings.

Order: Carrier is directed to make this Award effective within thirty (30) days of date of issuance shown below.


S. A. Hammons, Jr. Employee Member


J. J. Shannon, Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member

Issued October 20, 1987.