

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 285

Case No. 285
File 247-7145

Parties Brotherhood of Maintenance of Way Employes
to and
Dispute Union Pacific Railroad Company

Statement

of Claim: (1) Carrier violated the current working agreement, especially Rules 2 and 12, when it denied Track Subdepartment employe Bernard Davis the opportunity to return to work as a foreman, restoring his seniority date of May 19, 1978.

(2) Claimant Davis should now be allowed the difference in rate of pay between Track Foreman than that of his present position for eight hours each workday, including holidays falling therein and any overtime which have accrued to him beginning August 9, 1985, continuing until his rights as foreman as of May 19, 1978 are restored to him and he is permitted to exercise his rights as foreman.

The Board has jurisdiction of this case.

Claimant was involved in an off duty incident on November 26, 1982. He was attacked by five men who struck him severely on the left frontal region of his head. The discovery of bleeding in the right frontal region caused a craniotomy to be performed to stop the bleeding. After the surgery, Claimant became violent and agitated. He was treated therefor with lithium carbonate and Thorazine and a psychiatrist monitored his medication regime of lithium carbonate and phenobarbital.

Carrier's Medical Director requested that Claimant present himself to Southern Clinic in St. Louis to see if he would be able to meet the Company medical standards. The Claimant was medically qualified to return to service. However, he has been unable to pass the Carrier's Book of Rules examination.

It is this latter point that is the basis of this instant dispute. Simply stated, he is not able to pass a Rules test, which is critical to a Track Foreman.

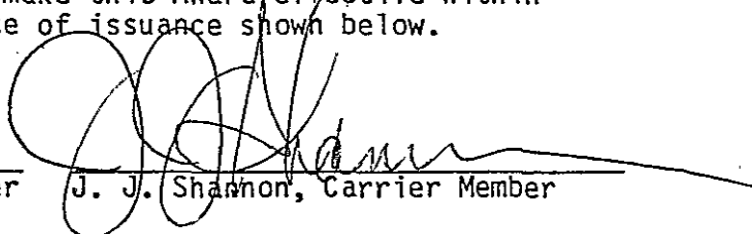
Claimant is to be given a general review of the rules and tests at the same time as such rules review and tests are given to other employees and in the same manner. The results thereof, when graded, will be given to the Claimant with a copy of the written results being sent to the highest designated representatives of the Carrier and the Organization.

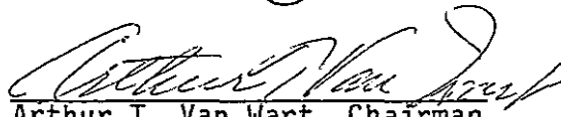
If the Claimant is not agreeable to compliance with this arrangement within 30 days of notification, the case will be denied as of that time and the file closed thereon.

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. Hammons, Jr., Employee Member


J. J. Shannon, Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member

Issued May 28, 1988.