

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 307

Case No. 307
File 247-2310-1

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 former Trackman W. E. Jackson, SSN: 496-64-3654, was dismissed from the service effective May 16, 1985.

(2) Claimant Jackson shall now be allowed eight hours compensation per day including any overtime and holidays that have occurred beginning July 29, 1986, and continuing until reinstatement.

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, a Trackman of some seven months service, was given notice on April 26, 1985 to attend a formal investigation on the charge:

"...your alleged failure to comply with instructions from Assistant Road Master O. R. Bowers and Foreman S. K. Ward on April 24, 1985 near Pleasant Hill, Missouri, while you were working as trackman on Gang 5012."

As a result thereof, Carrier concluded that Claimant was guilty of being quarrelsome, directing profane language and not working up to

his ability. He was discharged as discipline therefor.

The Board finds that Claimant was accorded the due process to which entitled under Rule 12 - Discipline Investigations. There were no violations of Rule 12. Claimant was properly apprised, given precise charges, his hearing was timely held and he was properly and fairly represented. Claimant was given the right to testify, to present witness, to introduce evidence and to face and examine his accusers. He exercised his right of appeal.

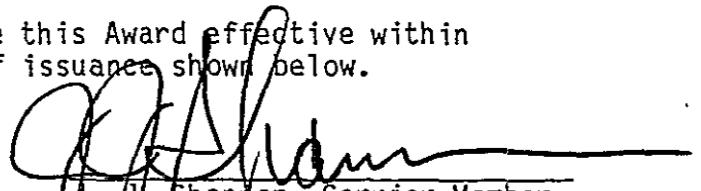
There was sufficient evidence adduced including the assertions of Claimant to support Carrier's conclusion as to Claimant's guilt.

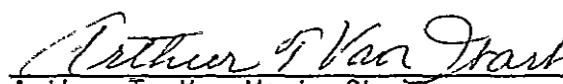
The Board finds that the discipline was not unreasonable. However, the Board finds mitigating circumstances. The Board clearly finds no evidence of racial inequalities or discrimination. Claimant will be returned to service with all rights unimpaired but without pay and be placed in a six month probationary status to permit him to demonstrate to both the Organization and to the Carrier that he desires to work for this Carrier. The probationary status will not deny Claimant the right of the protection of Rule 12.

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