

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 390

Case No. 390  
File 247-7439

Parties     Brotherhood of Maintenance of Way Employees  
to           and  
Dispute     Union Pacific Railroad  
              (Former Missouri Pacific Railroad Company)

Statement

of Claim: (1) Carrier violated the Agreement, especially Rule 12, when Mechanic H. B. Deaton was assessed a sixty (60) day actual suspension on January 6, 1986, after being coerced into signing a waiver of investigation.

(2) Claim in behalf of Mechanic Deaton for all time lost, including holidays and any overtime beginning January 6, 1986.

Findings: The Board has jurisdiction by reason of the parties Agreement establishing this Board.

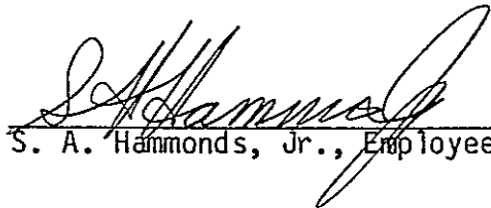
Claimant on January 5, 1986, locked a vehicle assigned to him at the campsite. He apparently failed to secure the vehicle. Subsequently, it rolled into the gang bus causing damage and constituted a rule violation. A formal investigation was to be held. Claimant waived the investigation and accepted a 30 day deferred suspension in lieu thereof.

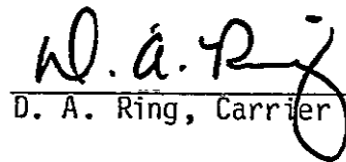
Rule 12 provides, in effect, that an employee shall not be disciplined without first being given a fair and impartial investigation. The rule does not provide for a waiver. Here, the waiver under coercion was raised as an issue.

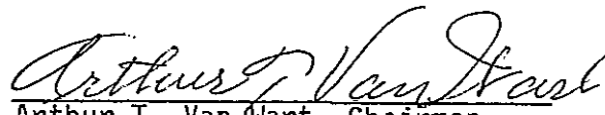
At first blush the Board had a different perception of this particular case. However, in view of the admitted long standing practice of waiver and the further fact that the issue of waiver was raised as disputed on this property with other organizations many years ago, the Board finds for the waiver continuance. See Third Division Award 18468 and 21183.

The Board must hold that the waiver is valid but to avoid charges of coercion copy thereof should be furnished the Union's local representative. In the instant case no basis for coercion was shown. This claim will be denied.

Award: Claim denied.

  
S. A. Hammonds, Jr., Employee Member

  
D. A. Ring, Carrier Member

  
Arthur T. Van Wart, Chairman  
and Neutral Member

Issued September 30, 1989.