

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 402
Case No. 402
File No. 880712

Parties Brotherhood of Maintenance of Way Employes

to and

Dispute: Union Pacific Railroad Company
(Former Missouri Pacific Railroad Company)

**Statement
of
Claim:**

"Carrier violated the Agreement, especially Rule 12, when Trackman Rickey Clark was dismissed September 30, 1988.

Claim in behalf of Mr. Clark for eight hours each work day, including holidays and any overtime beginning September 30, 1988 and continuing, with seniority, vacation and all other 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.

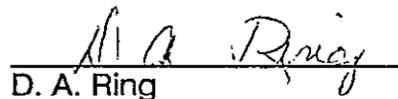
A careful review of the record in this case reveals that Claimant was afforded a fair and impartial hearing and that there is substantial record evidence (including probative testimony of co-workers) to support the Carrier's determination that Claimant was guilty of submitting a falsified report of on-duty personal injury on September 18, 1988.

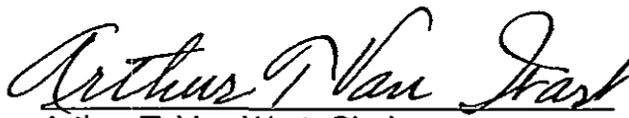
Not only is the falsification of an injury report a serious violation of company rules, such an act, when proven, is a grave breach of duty compelled by the employe-employer relationship. The Carrier is entitled to insist that all of its employes promptly and truthfully disclose all relevant information they possess concerning an injury, whether on or off duty, in order to defend itself against the tide of personal injury litigation which frequently follows an on-duty mishap. Claimant herein breached his responsibilities to the Carrier.

Due to the gravity of the proven offense, and finding no mitigation on the record before us, the Board concludes that Carrier's decision to permanently dismiss Claimant is not unreasonable, arbitrary nor capricious and will be upheld.

Award: Claim denied.


S. A. Hammons, Jr.
Employee Member


D. A. Ring
Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member

Issued on the 10 day of November, 1989
at Orlando, Florida.